ACADIA NATIONAL PARK, CAPITOL REEF NATIONAL PARK, AND GATEWAY NATIONAL RECREATION AREA

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

OF THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

S. 1777

A BILL RELATING TO THE ESTABLISHMENT OF A PERMANENT BOUNDARY FOR THAT PORTION OF THE ACADIA NATIONAL PARK AS LIES WITHIN THE TOWN OF ISLE AU HAUT, MAINE

S. 1872

A BILL TO AMEND THE ACT ESTABLISHING THE CAPITOL REEF NATIONAL PARK IN THE STATE OF UTAH TO PROVIDE FOR A GRAZING PHASEOUT SCHEDULE, AND FOR OTHER PURPOSES

S. 2218

A BILL TO PROVIDE FOR THE DEVELOPMENT AND IMPROVEMENT OF THE RECREATION FACILITIES AND PROGRAMS OF GATEWAY NATIONAL RECREATION AREA THROUGH THE USE OF FUNDS OBTAINED FROM THE DEVELOPMENT OF METHANE GAS RESOURCES WITHIN THE FOUNTAIN AVENUE LANDFILL SITE BY THE CITY OF NEW YORK

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ACADIA NATIONAL PARK, CAPITOL REEF NATIONAL PARK, AND GATEWAY NATIONAL RECREATION AREA

WEDNESDAY, APRIL 14, 1982

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:05 a.m., in room 3110, Dirksen Office Building, Hon. Malcolm Wallop, presiding.

Present: Senator Wallop.

Also present: Tony Bevinetto, professional staff member.

OPENING STATEMENT OF HON. MALCOLM WALLOP, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator WALLOP. Good morning, one and all. This morning the Public Lands and Reserved Water Subcommittee will hear testimony on three bills involving units of the National Park System.

They are S. 1777, to establish a permanent boundary of that portion of the Acadia National Park as lies within the town of Isle au Haut, Maine; S. 1872, to amend the act establishing the Capitol Reef National Park in the State of Utah to provide for a grazing phaseout schedule; and S. 2218, to provide for the development and improvement of the recreational facilities and programs of the Gateway National Recreation Area through the use of funds obtained from the development of methane gas resources within the Fountain Avenue Landfill site by the city of New York.

The subcommittee has arranged the witnesses to appear in the order of the bills as stated. However, we will ask that witnesses allow the Chair to interrupt to receive the testimony of a number of Senators who wish to testify and have other hearings and matters to attend to. Senators Garn and Hatch wish to testify on S. 1872, and Senator D'Amato will testify on S. 2218.

I might say we have the statements I understand from Senators Cohen and Mitchell on the Acadia legislation as well. I would ask Mr. Hutchison to present his testimony on each bill as that bill comes up in order that all testimony on the given bill will appear in one place in the hearing record, and the record will remain open for two weeks for the submission of any additional testimony.

Before we begin, I must twit the administration yet again for inadequate time and the inadequacy of their positions on these bills, and notice has gone out with plenty of time, and there is a rule of

the committee, and by all reasonable estimation we ought not to accept the testimony that will be offered here this morning.

I will accept it unless there is an objection by some other member of the subcommittee, but we simply have to get over this habit. There is no excuse for it, and there is no reason for it, and the subcommittee will not tolerate it in the future.

With that, I will ask Senator D'Amato if he would present his testimony.

[The texts of the bills and the prepared statements of Senators Cohen and Mitchell follow:]

II

97TH CONGRESS
1ST SESSION

S. 1777

Relating to the establishment of a permanent boundary for that portion of the Acadia National Park as lies within the town of Isle au Haut, Maine.

IN THE SENATE OF THE UNITED STATES

OCTOBER 27 (legislative day, OCTOBER 14), 1981

Mr. MITCHELL (for himself and Mr. COHEN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

Relating to the establishment of a permanent boundary for that portion of the Acadia National Park as lies within the town of Isle au Haut, Maine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that—

(1) there are significant scenic, educational, natural, and cultural resources in the town of Isle au Haut, Maine;

(2) due to the isolated location and traditional resource-based economy of the town's island community,

these resources are fragile and deserving of conservation and protection through both public and private efforts; and

(3) both residents of the town and visitors to the Acadia National Park will benefit from the establishment of a permanent boundary for the park and the management of parklands on a limited entry, low intensity basis.

SEC. 2. Notwithstanding any other provision of law, the permanent boundary of Acadia National park lying within the town of Isle au Haut, Maine, is hereby established to include only those lands and interests therein comprising approximately three thousand seven hundred and eighty-two acres as are depicted on the map entitled "Boundary Map, Acadia National Park, Town of Isle au Haut, Maine", numbered 123–80003 and dated October 1981, which map is on file and available for public inspection in the offices of the Department of the Interior and at the Registry of Deeds for Hancock and Knox Counties, Maine.

SEC. 3. (a) Within the boundary established by section 2, and as indicated on the map referenced therein, the Secretary of the Interior (hereinafter referred to as "the Secretary") is authorized to acquire lands and interests therein by donation or exchange. No later than ninety days from enactment hereof, the Secretary shall convey to the town of Isle

au Haut all right, title and interest of the United States in and to those lands under the jurisdiction of the Secretary which lie outside the boundary established by section 2 and within the town of Isle au Haut, subject only to such covenants running with the land as the Secretary and the town agree are necessary to preserve the general character of such lands, which shall include covenants to maintain forever in their natural condition (excepting the cutting of fire trails and the extinguishment of fires) lands above three hundred feet above the mean high water level: *Provided, however,* That such covenants with respect to lands above three hundred feet and below four hundred feet shall permit the gathering and removal of dead and fallen timber.

(b) Notwithstanding any other provisions of this Act, the Secretary is also authorized to accept by donation, as a co-holder for enforcement purposes only, a limited enforcement interest in conservation easements on lands outside the boundary established by section 2 hereof and within the town of Isle au Haut which may from time to time be donated to the Isle au Haut Land Conservation Trust, a trust established under the laws of the State . ..perintendent of Acadia National Park is hereby authorized to serve as an ex officio trustee of such trust.

SEC. 4. The management and use of parklands on Isle au Haut shall not interfere with the maintenance of a viable

local community with a traditional resource-based economy outside the boundary of the park. To the maximum extent practicable, no development or plan for the convenience of park visitors shall be undertaken which would be incompatible with the preservation of the flora and fauna or the physiographic conditions now prevailing, and every effort shall be exerted to maintain and preserve this portion of the park in as nearly its present state and condition as possible. In recognition of the special fragility and sensitivity of the park's resources, visitation shall be strictly limited to assure negligible adverse impact on such resources, to conserve the character of the town and to protect the quality of the visitor experience. In furtherance thereof, the Secretary shall establish carrying capacities not in excess of annual average visitation during the period 1979 through 1981.

II

97TH CONGRESS
1ST SESSION

S. 1872

To amend the Act establishing the Capitol Reef National Park in the State of Utah to provide for a grazing phaseout schedule, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 19 (legislative day, NOVEMBER 2), 1981

Mr. GARN (for himself and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To amend the Act establishing the Capitol Reef National Park in the State of Utah to provide for a grazing phaseout schedule, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Capitol Reef National Park Act (16 U.S.C. 273b) is amended by striking section 3 and inserting in lieu thereof the following:

"SEC. 3. Where any Federal lands included within the park by the Act of December 18, 1971, were legally occupied or utilized on the date of approval of that Act for graz-

ing purposes, or for other purposes not inconsistent with the Act of August 25, 1916 (39 Stat. 535), pursuant to a lease, permit, or license issued or authorized by any department, establishment, or agency of the United States, the person so occupying or utilizing such lands and the heirs, successors, or assigns of such person, shall, upon the termination of such lease, permit, or license, be entitled to have the privileges so possessed or enjoyed by him renewed from time to time, subject to such terms and conditions as the Secretary of the Interior shall prescribe, for a period of twenty-five years from the date of approval of the Act of December 18, 1971, and thereafter during the lifetime of such person and the lifetime of his heirs, successors, or assigns but only if they were members of his immediate family on such date, as determined by the Secretary of the Interior: *Provided,* That grazing privileges appurtenant to privately owned lands located within the Capitol Reef National Park established by the Act of December 18, 1971, shall not be withdrawn until title to lands to which such privileges are appurtenant shall have vested in the United States, except for failure to comply with the regulations applicable thereto after reasonable notice of default: *Provided further,* That nothing in this section shall apply to any lease, permit, or license for mining purposes or for public accommodations and services or to any occupancy or utilization of lands for purely temporary purposes. Nothing

contained in this Act shall be construed as creating any vested right, title, interest, or estate in or to any Federal lands.".

II

97TH CONGRESS
2D SESSION

S. 2218

To provide for the development and improvement of the recreation facilities and programs of Gateway National Recreation Area through the use of funds obtained from the development of methane gas resources within the Fountain Avenue Landfill site by the city of New York.

IN THE SENATE OF THE UNITED STATES

MARCH 16 (legislative day, FEBRUARY 22), 1982

Mr. D'AMATO introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To provide for the development and improvement of the recreation facilities and programs of Gateway National Recreation Area through the use of funds obtained from the development of methane gas resources within the Fountain Avenue Landfill site by the city of New York.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of Public Law 92–592 is amended by adding at the end thereof the following new subsection:

"(i) The United States hereby conveys to the city of New York all rights to the methane gas and associated by-products resulting from solid waste decomposition on the area

within the Jamaica Bay Unit known as the Fountain Avenue Landfill site, subject to payments to the United States of 12 per centum of the revenue received by the city of New York, if any, from the development of such rights. All such payments to the United States shall be credited to the appropriations of the National Park Service for the development and improvement of Gateway National Recreation Area.

THE UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATERS

STATEMENT

OF

WILLIAM S. COHEN
UNITED STATES SENATOR

IN SUPPORT OF

S. 1777, a Bill to Establish a Permanent Boundary For that Portion of Acadia National Park as Lies Within the Town of Isle au Haut, Maine

April 14, 1982

Mr. Chairman, I am pleased to submit this statement in support of S. 1777, a bill introduced by my colleague from Maine, Senator Mitchell, and myself. The bill will establish a permanent boundary for the Acadia National Park lands that lie within the Town of Isle au Haut, Maine.

This legislation represents the culmination of many long hours of negotiations spanning several years on the part of town landowners, municipal officials, representatives of the conservation community and the National Park Service. I wish to commend the Subcommittee for taking such prompt action on this bill, and also thank the many individuals, who devoted their time to shaping the final version of this legislation.

I believe the testimony you will receive this morning will indicate the widespread support which exists for this legislation. At issue is the future not only of the park lands which have never enjoyed a permanent boundary, but also the town, which has a responsibility to both private landowners and the holders of future conservation easements. I believe this bill strikes a reasonable compromise that is acceptable to all interested parties. It will continue to protect, in the most practical way, the natural resources of the island.

Since the first land donation years ago, the National Park Service and the Town of Isle au Haut have received little guidance with respect to the future of both the Park and town land holdings. This bill will establish, once and for all, the Park's permanent boundary, while not precluding the guaranteed protection of future donations which landowners may want preserved and protected in their natural state for future generations.

Under the provisions of this bill, the new boundary will be contiguous to current park holdings and will be established by negotiating a fair land exchange for non-contiguous Park parcels of land in the northern part of the island. I am particularly grateful to those individuals who have cooperated to make this land exchange possible.

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I believe that the most significant accomplishment of this bill is the creation of the Isle au Haut Land Conservation Trust. This new land trust will allow present and future landowners to donate holdings they wish to have preserved in perpetuity in their natural state to this new trust, or any other organization that may be created to accept conservation easements.

It is important to note that the Superintendent of Acadia National Park will serve as an ex-officio trustee of the five-member trust created by the bill. Critical to this agreement, as you will note in Section 3(b) of the bill, is the stipulation that the Secretary of the Interior be granted the authority to accept the obligation to enforce conservation easements donated to the Trust. This section of the bill assures future generations that conservation easements will not be neglected for lack of enforcement.

Finally, I wish to comment on the controversial matter of the island visitation levels. Sections 4 of the bill clearly states that the government shall establish carrying capacities not in excess of the average number of annual visitors during the previous three-year period. This agreement represents a compromise between the need to ease the burden on the residents of the Island from an excessive number of visitors and the need to permit fair access to the island. I believe there is flexibility in this provision, both for the National Park Service, and for the town as well.

Mr. Chairman, for years the residents of Isle au Haut have searched for a solution to the permanent boundary problem, which this legislation finally addresses. I believe this bill represents a good faith effort on the part of the town and the federal government to reach a responsible solution to this problem. I am hopeful that the Subcommittee will come to share this view, and give its approval to this important legislation.

BEFORE THE UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

STATEMENT OF

SENATOR GEORGE J. MITCHELL

IN SUPPORT OF S. 1777

APRIL 14, 1982

Mr. Chairman, I want to express my wholehearted support for S. 1777, legislation to establish a permanent boundary for Acadia National Park on Isle au Haut, Maine.

I appreciate the opportunity this committee has provided for a hearing on the bill. For it is the product of ten long years of discussion and compromise on the part of all parties concerned -- the town, local landowners, environmentalists and the National Park Service. Further, it represents what is, in my belief, a reasonable solution to the problems facing the town and the park by establishing a permanent boundary for the proper division of the two entities and for the proper management of park holdings.

The new boundary will retain current park property located in the southwestern portion of the island. It will also permit the addition of new parcels of land that are of high natural quality and are being donated by private landowners. And it will transfer three parcels of land currently owned by the federal government in the upper half of the island to the town of Isle au Haut. The bill ensures that upon such transfer, covenants running with the land will be put in place so as to preserve the general character of that property.

The legislation is also intended to recognize the use of conservation easements as a tool to preserve the scenic quality of land in its natural state. At present, island residents can donate such easements to conservation organizations, to the town or to the National Park Service. The bill contemplates that residents could continue to give such easements outside the park boundary to the town or conservation organizations, and anticipates the creation of a new entity - the Isle au Haut Land Conservation Trust - to accept such easements as well. The legislation authorizes the Superintendent of Acadia National Park to serve as trustee of the trust and allows the National Park Service to enforce the easements donated to the trust if the landowner and the park both consent to such an arrangement.

Finally, S. 1777 calls for the establishment of a carrying capacity on Isle au Haut to limit the number of visitors who can travel to the island to the average annual visitation during the last three years. This part of the bill embodies an overall purpose of the legislation: to preserve both the natural resources on the island and a way of life.

Isle au Haut is a remote island in Penobscot Bay with a year-round population of 80 people. It is a fishing village, where there are no telephones and where electricity is a recent development. The number of tourists who visit the island in the summer months is significantly less than on Mount Desert Island, the main portion of Acadia National Park. But Isle au Haut is not

suited to receiving throngs of visitors. There has already been some damage to its natural resources and larger numbers of tourists could cause serious deterioration in the physical characteristics of the island. Further, such a phenomenon could threaten lobstering which has been the chief industry in this community for two centuries. Conservation of the resource is therefore essential to the residents' way of life. They have an acute sense of the beauty and value of their island and its resources, and of the need to preserve them for generations to come.

In concluding, I would like to urge that the committee act expeditiously on this legislation. It has been arrived at after many years of discussion and the promise of land exchanges which it envisions has been maintained because of the patience and generosity of the town and the private landowners involved. An identical bill has been introduced in the House of Representatives, and action must still occur in that body once this committee and the full Senate have considered our bill. In light of the relatively short period of time remaining in this second session of the 97th Congress, I therefore urge prompt action on the committee's part, Mr. Chairman, and pledge to work with you in ironing out any differences which may remain among the interested parties.

I wish to thank you for this opportunity to present testimony and to thank town officials and their counsel, environmentalists, committee staff and all others who helped draft this bill.

STATEMENT OF HON. ALFONSE D'AMATO, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator D'AMATO. Thank you very much, Mr. Chairman, for giving me this opportunity, as you have indicated, to break the sequence and to help us in our schedules, and I would like to thank the Chair for the promptness with which you scheduled the hearing on S. 2218.

In addition, I would like to thank you for the opportunity to testify in support of this legislation. Public figures must admit that in response to certain things they say, some critics will reply, "Rubbish!" Well, today I freely admit that I come before this subcommittee to talk about rubbish.

As you are aware. S. 2218 would convey to New York City the right to the methane gas which has been generated as a result of the city's use of the Fountain Avenue Landfill. For that conveyance, New York City would pay to the United States 12 percent of the revenues it receives from the development of a methane recovery project. This payment would be dedicated to the Gateway National Recreation Area.

It has been estimated that Fountain Avenue Landfill site can produce the equivalent of over 600,000 barrels of oil annually. This I would like to emphasize will not cost the U.S. taxpayers 1 cent. In fact, the citizens will benefit from the use of a reusable resource that would otherwise vanish into the atmosphere. The methane gas which is present as a result of the decomposition of the rubbish can be allowed to either dissipate into the atmosphere and be wasted, or with the development of this methane recovery project it can be captured and used to help reduce our country's dependence on oil, imported oil. More simply put, we can use it or lose it.

The Fountain Avenue Landfill is located on a 300-acre parcel of land in Brooklyn. It has been used for garbage disposal for many years. At present, the landfill currently accepts approximately 8,000 tons of municipal solid waste per day. This operation is an extremely expensive one costing New York City taxpayers millions of dollars annually. In 1974 along with other land parcels New York City dedicated or deeded the Fountain Avenue Landfill to the National Park Service for inclusion in Gateway. In deeding the property, the City retained the right to continue landfill operations until the beginning of 1986.

I admit, Mr. Chairman, that the City has been given an additional 2 years to tap this site and so that these properties will be under the exclusive control of the city of New York through 1987. That becomes a matter of critical importance when one thinks that a project of the magnitude that we suggest in terms of mining this methane will take 2 to 3 years to begin to implement and to begin the process of extracting the methane.

Following the donation of the land and as a result of increasing energy prices, the development of methane recovery technology became feasible. Since then, New York City has sought to tap the available methane in its landfills and has developed a comprehensive plan to do so. Of course, Fountain Avenue logically should be included in such a plan. Although estimates are highly speculative, it is possible that there exists the equivalent of 600,000 barrels of

oil annually which can be extracted there, but New York City can no longer proceed because it has donated the landfill to the National Park Service.

Nevertheless, with the passage of S. 2218, this potential energy benefit can be realized. New York City will be authorized to seek development of a methane recovery project at Fountain Avenue. Following passage of this legislation, the City will select a developer for the project through its own competitive bidding procedure. It is estimated that the project will generate revenues to the city of between 500,000 and $1 million annually. Although the dollars generated are not significant, I think that in the totality of the project, it is something that is of great importance to this Nation.

I have been a strong supporter of developing resource recovery technology for many years as a means of reducing our dependency on imported oil. New York more than many other States is heavily dependent on foreign oil, and every effort should be made to reduce this reliance. The methane gas which is present in any event, can be allowed to either dissipate into the atmosphere and be wasted or with the development of a methane recovery project it can be captured and used to help reduce our country's dependency on imported oil, or simply put, we should use it in this manner.

Perhaps just as important as the development of the methane project is revenue which will be dedicated to the improvement and operation of Gateway as a result of this legislation. Gateway serves a vital and special function in New York, providing recreational opportunities for more than 20 million people. Unknown by many, as more and more people flock to Gateway, so have a variety of birds and species, from 63 species in 1953 to more than 300 today. Furthermore, although Gateway has only 1 percent of Yellowstone's acreage, its visitors outnumber Yellowstone's four to one.

Nevertheless, budget cutting has all but wiped out Federal funding for many of our urban parks. I supported many of the budget reductions because they are essential to our economic recovery. As a result of these reductions, we must develop innovative methods to maintain programs which might otherwise suffer losses. In this regard, S. 2218 provides for 12 percent of New York City's proceeds of the methane recovery project which will earn as I have mentioned between $500,000 to $1 million, to be used for the operation of Gateway.

If the project goes forward, an alternative energy resource will be developed with a promising new technology. The recreation area will be made a safer and healthier place because the methane will be removed.

In addition, I might add that this land cannot be used for the purpose for which it was intended until the methane is extracted or is lost into the atmosphere.

I urge the subcommittee to move as expeditiously as it possibly can, and in addition, I would call to the committee's attention the fact that the House has passed H.R. 5014 which extends the life of the Gateway Advisory Commission for 10 years. I have introduced identical legislation in the Senate, S. 2275. This measure is noncontroversial, and since it also deals exclusively with Gateway, I would hope that the subcommittee would attach S. 2218 as an amendment to S. 2275 so that both bills might be enacted as quickly as possible.

[The prepared statement of Senator D'Amato follows:]

STATEMENT

BY

SENATOR ALFONSE D'AMATO

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVE WATER

HEARINGS ON S.2218

MR. CHAIRMAN, I WOULD LIKE TO THANK YOU FOR THE PROMPTNESS WITH WHICH YOU SCHEDULED HEARINGS ON S.2218. IN ADDITION, I WOULD LIKE TO THANK YOU FOR THE OPPORTUNITY TO TESTIFY IN SUPPORT OF THIS LEGISLATION.

PUBLIC FIGURES MUST ADMIT THAT IN RESPONSE TO CERTAIN THINGS THEY SAY, SOME CRITICS WILL REPLY: "RUBBISH." WELL, TODAY, I FREELY ADMIT THAT I COME BEFORE THE SUBCOMMITTEE TO TALK ABOUT GARBAGE.

AS YOU ARE AWARE, S.2218 WOULD CONVEY TO NEW YORK CITY THE RIGHTS TO THE METHANE GAS WHICH HAS BEEN GENERATED AS A RESULT OF THE CITY'S USE OF THE FOUNTAIN AVENUE LANDFILL. FOR THAT CONVEYANCE, NEW YORK CITY WOULD PAY TO THE UNITED STATES TWELVE PERCENT OF THE REVENUES IT RECEIVES FROM THE DEVELOPMENT OF A

METHANE RECOVERY PROJECT. THIS PAYMENT WOULD BE DEDICATED TO THE GATEWAY NATIONAL RECREATION AREA.

THE FOUNTAIN AVENUE LANDFILL IS LOCATED ON A 300 ACRE PARCEL OF LAND IN BROOKLYN. IT HAS BEEN USED FOR GARBAGE DISPOSAL FOR MANY YEARS. AT PRESENT, THE LANDFILL CURRENTLY ACCEPTS APPROXIMATELY 8,000 TONS OF MUNICIPAL SOLID WASTE PER DAY. THIS OPERATION IS AN EXTREMELY EXPENSIVE ONE, COSTING NEW YORK CITY TAXPAYERS MILLIONS OF DOLLARS EVERY YEAR.

IN 1974, ALONG WITH OTHER LAND PARCELS, NEW YORK CITY DEEDED THE FOUNTAIN AVENUE LANDFILL TO THE NATIONAL PARK SERVICE FOR INCLUSION IN GATEWAY. IN DEEDING THIS PROPERTY, THE CITY RETAINED THE RIGHT TO CONTINUE LANDFILL OPERATIONS UNTIL THE BEGINNING OF 1986.

HOWEVER, FOLLOWING THE DONATION OF THE LAND, AND AS A RESULT OF INCREASING ENERGY PRICES, THE DEVELOPMENT OF METHANE RECOVERY TECHNOLOGY BECAME FEASIBLE. SINCE THEN, NEW YORK CITY HAS SOUGHT

TO TAP THE AVAILABLE METHANE IN ITS LANDFILLS AND HAS DEVELOPED A COMPREHENSIVE PLAN TO DO SO. OF COURSE, FOUNTAIN AVENUE LOGICALLY SHOULD BE INCLUDED IN SUCH A PLAN. ALTHOUGH ESTIMATES ARE HIGHLY SPECULATIVE, IT IS POSSIBLE THAT THERE EXISTS THE EQUIVALENT OF 600,000 BARRELS OF OIL ANNUALLY WHICH CAN BE EXTRACTED THERE. BUT NEW YORK CITY CAN NO LONGER PROCEED BECAUSE IT HAS DONATED ITS GARBAGE TO THE NATIONAL PARK SERVICE.

NEVERTHELESS, WITH THE PASSAGE OF S.2218, THIS POTENTIAL ENERGY BENEFIT CAN BE REALIZED. NEW YORK CITY WILL BE AUTHORIZED TO SEEK DEVELOPMENT OF A METHANE RECOVERY PROJECT AT FOUNTAIN AVENUE. FOLLOWING PASSAGE OF THIS LEGISLATION, THE CITY WILL SELECT A DEVELOPER FOR THE PROJECT THROUGH ITS OWN COMPETITIVE BIDDING PROCEDURE.

I HAVE BEEN A STRONG SUPPORTER OF DEVELOPING RESOURCE RECOVERY TECHNOLOGY FOR MANY YEARS AS A MEANS OF REDUCING OUR DEPENDENCE ON IMPORTED OIL. NEW YORK, MORE SO THAN MANY OTHER STATES, IS HEAVILY DEPENDENT ON FOREIGN OIL, AND EVERY EFFORT SHOULD BE MADE TO REDUCE

THIS RELIANCE. THE METHANE GAS, WHICH IS PRESENT IN ANY EVENT, CAN BE ALLOWED TO EITHER DISSIPATE INTO THE ATMOSPHERE AND BE WASTED, OR WITH THE DEVELOPMENT OF A METHANE RECOVERY PROJECT IT CAN BE CAPTURED AND USED TO HELP REDUCE OUR COUNTRY'S DEPENDENCE ON IMPORTED OIL. MORE SIMPLY PUT, WE CAN USE IT OR LOSE IT.

PERHAPS JUST AS IMPORTANT AS THE DEVELOPMENT OF THE METHANE RECOVERY PROJECT IS THE REVENUE WHICH WILL BE DEDICATED TO THE IMPROVEMENT AND OPERATION OF GATEWAY AS A RESULT OF THIS LEGISLATION. GATEWAY SERVES A VITAL AND SPECIAL FUNCTION IN THE NEW YORK METROPOLITAN AREA, PROVIDING RECREATIONAL OPPORTUNITIES FOR MORE THAN 20 MILLION PEOPLE. UNKNOWN BY MANY, AS MORE AND MORE PEOPLE FLOCK TO GATEWAY, SO HAVE A VARIETY OF BIRDS -- FROM 63 SPECIES IN 1953 TO MORE THAN 300 TODAY. FURTHERMORE, ALTHOUGH GATEWAY HAS ONLY ONE PERCENT OF YELLOWSTONE'S ACREAGE, ITS VISITORS OUTNUMBER YELLOWSTONE'S FOUR TO ONE.

NEVERTHELESS, BUDGET CUTTING HAS ALL BUT WIPED OUT FEDERAL FUNDING FOR SUCH URBAN PARKS. I HAVE SUPPORTED MANY OF THE BUDGET

REDUCTIONS BECAUSE THEY ARE ESSENTIAL TO OUR ECONOMIC RECOVERY. AS A RESULT OF THESE REDUCTIONS WE MUST DEVELOP INNOVATIVE METHODS TO MAINTAIN PROGRAMS WHICH MIGHT OTHERWISE SUFFER LOSSES. IN THIS REGARD, S.2218 PROVIDES FOR TWELVE PERCENT OF NEW YORK CITY'S PROCEEDS OF THE METHANE RECOVERY PROJECT TO BE USED FOR THE OPERATION OF GATEWAY.

IF THE PROJECT GOES FORWARD, AN ALTERNATIVE ENERGY RESOURCE WILL BE DEVELOPED WITH A PROMISING NEW TECHNOLOGY. THE RECREATION AREA WILL BE MADE A SAFER AND HEALTHIER PLACE BECAUSE THE METHANE WILL BE REMOVED. IN ADDITION, I MIGHT ADD THAT THIS LAND CANNOT BE USED FOR THE PURPOSE FOR WHICH IT WAS INTENDED UNTIL THE METHANE IS EXTRACTED OR IS LOST INTO THE ATMOSPHERE.

I URGE THE COMMITTEE TO MOVE QUICKLY TO APPROVE THIS LEGISLATION. EACH DAY OF DELAY WASTES 10 MILLION CUBIC FEET OF METHANE WHICH EVAPORATES INTO THE SURROUNDING AREA.

Senator WALLOP. Thank you very much, Senator D'Amato, and we will continue with the hearing in its regularly scheduled order, and we appreciate your coming by this morning.

I might say that the subcommittee will have some problem with the percentage suggested, but that is something that we will talk about as we get further into the hearing, and we very much appreciate your testimony.

Senator D'AMATO. Thank you very much, Mr. Chairman. If I might, I would point out the very unusual nature of the possible resource in that it is a landfill site, a landfill site that had been donated by the city, that if we were to use the standard formula of one eighth, and I believe OMB has recognized this and the Interior Department has just recently come around to our way of thinking on this, that we will have no project. There will be no project. There will be a loss of 600,000 barrels annually of oil potential that could be mined. The city will not go forward. The Federal Government wouldn't get these lands until 1987. It would take 3 years to put in a project.

The lifetime expectancy in terms of yielding this methane is only 15 to 20 years, so we would have lost 10 years, and so consequently, I think there are some extremely mitigating circumstances that call for a variation of what might be the standard form in terms of revenues produced from this type of operation.

Senator WALLOP. I might add it is a variation of the standard formula to have somebody come down here and ask to drill for oil and gas in a National Park in the first place. It is not the kind of thing that this committee is used to; in fact, quite the opposite.

Senator D'AMATO. I understand, Mr. Chairman, and again, it is a rubbish heap so to speak. It is a garbage dump, and another thing that takes place, the mining and the extraction of the methane makes possible for the conversion of what would otherwise be a rubbish dump, a landfill site, into utilization as a park site quicker, more easily, and also makes available revenues to do that right at that particular site, and so there are some extenuating circumstances I think that can clearly differentiate this from the standard going in and drilling for the oil or the natural gas that might exist in your traditional wildlife refuges, so I thank the Chair for your courtesy and the opportunity of making these remarks to the Chair.

Senator WALLOP. Thank you, sir. Thank you very much. The next witness is Senator Garn on S. 1872, Capitol Reef.

STATEMENT OF HON. JAKE GARN, A U.S. SENATOR FROM THE STATE OF UTAH

Senator GARN. Thank you very much, Mr. Chairman. Senator Wallop, members of the subcommittee, I am pleased to be here today. Also here today is Commissioner Dell LeFevre of Garfield County and Guy Pace of Wayne County who are representing the stockmen affected by the scheduled phaseout of the grazing in the Capitol Reef National Park. Also here today is Dr. James Bowns of Southern Utah State College, an internationally recognized expert on range management, and of course, my colleague from Utah, Senator Hatch.

Mr. Chairman, before getting into the specifics of what this bill is intended to accomplish, I believe it is important for the committee to understand the nature of the area and the significance of livestock grazing to the people of Wayne and Garfield Counties, for that matter, the people of southern Utah generally.

Livestock grazing is a way of life. It has been the economic lifeblood of the majority of the people in these two counties for over a hundred years. I think most of our eastern colleagues, Senator, would be a little bit surprised by the description I am about to give. They can't quite comprehend what we deal with as public land States, and even within a public land State some of the counties are most dramatically affected. Lands within the two counties are almost entirely federally owned—Wayne County, 87.3 percent Federal ownership; 9 percent State; 3.6 percent of the entire land area is privately owned.

Garfield County, 91.8 percent Federal ownership: 7 percent State; 1.2 percent, privately owned—for tax base, for economic development, I wish some of our friends who will criticize this legislation and otherwise would try to comprehend the impact of having 1.2 percent of your county, a little over 3 percent of your county privately owned. It is an incredible burden that we bear as a public land State, and it is concentrated in principally these areas of our State. Wayne and Garfield Counties are now among the most economically distressed in the State with per capita incomes of $5,360, or 61 percent of the national average, and $5,830, or 67 percent of the national average respectively.

In this high altitude area, farming on private lands is difficult because of the short growing season, only about 90 days, and consists mainly of alfalfa production for winter cattle feed. Tourism is the other main source of revenue for this area. Thus livestock production from public rangelands is the dominant industry in these two counties.

At the time Capitol Reef National Park was established in 1971, many southern Utahns waited anxiously to see how their neighbor would fit into their lifestyle, anxious because they hoped for an increase in tourism, but also because they knew the establishment of the park meant new restrictions on the public lands. Animosity had already developed over President Lyndon Johnson's 1969 proclamation which increased by six times the land area of the Capitol Reef National Monument. This expansion came in the last 90 minutes of his term, and without any public comment on the impact of such a Presidential edict and what impact it would have on the local community, so with the formal establishment of the national park 2 years later, local feelings ran very high. I should make clear at the outset that it is not my intention to question the establishment of Capitol Reef National Park.

Quite the contrary–Capitol Reef is a beautiful park set aside primarily to protect the country's most spectacular geologic monocline, the Waterpocket Fold. In fact, it is the length of this monocline, some 100 miles, that makes Capitol Reef unique from other national parks. The simple fact is that running north to south and located in the center of Wayne and Garfield Counties, Capitol Reef National Park literally bisects them. It is impossible to travel from

one side of each county to the other without going through the confines of the park.

Because of this dramatic and unavoidable impact of the park, I believe it is essential to the well-being of these two counties and consistent with the Interior Department policy for the National Park Service and the BLM to continue to work together with each other to be good neighbors to the local community. Extension of the grazing phaseout is consistent with a good neighbor approach.

Mr. Chairman, I would like to ask that my entire statement be printed in the record and not take time to go into a great deal more detail, but only to explain briefly what the bill attempts to do.

Senator WALLOP. Without objection, the whole statement will be in the record.

Senator GARN. With respect to grazing in Capitol Reef, let me emphasize that according to the National Park Service, grazing in Capitol Reef takes place primarily in remote parts of the park away from the vast majority of visitors. Grazing occurs within the park from November through May when visitation is at a low ebb in the park. In 1981, only 148,000 of the total of 430,000 visitors to the park, about 30 percent, visited when cattle were present.

Interestingly, many tourists who do visit the park and surrounding areas when cattle are being trailed have said they are delighted to see this historical part of the Old West in action.

My purpose in introducing the bill is simply that the restrictions that were originally passed in Public Law 92-207 are considerably different than have been imposed on other parks. As a matter of fact, my bill is patterned almost identically after the Grand Teton National Park statute and is consistent with the language used in the original Senate bill S. 29 authorizing Capitol Reef in 1971. Significantly, S. 1872 is consistent with the intent of the original statute as expressed by the chief sponsors, Congressman McKay and former Senator Moss.

S. 1872 will allow a permit holder to renew his permit for a period of 25 years from the date of the establishment of the park, and thereafter during the lifetime of the permit holder and the lifetime of his heirs. This approach to a phaseout of grazing, if there has to be one, is fair, humane. It recognizes grazing for its historical longevity, for its value as the livelihood to individuals pursuing that way of life. It recognizes the family nature of the operation of ranching which played such an important role in the Old West, and still characterizes the family life of a large number of Utahns today.

Finally, Mr. Chairman, I must point out the only alternative remaining to the National Park Service if we do not pass this act and change the present phaseout schedule is to go in and fence off the park to proscribe trespassing. This could mean anywhere from 35 to 75 miles of fence at a cost of over $4,000 per mile. This would mean a $200,000 Federal expenditure if we assumed 50 miles of fence, plus maintenance costs.

Surely the Park Service would prefer to maintain the park in a more natural state than the miles of new fence would provide. Prudence would point to continuing to let the Waterpocket Fold act as a natural barrier to the cattle.

In summary, I believe the legislation I am proposing will allow the BLM to continue to work in a cooperative way with the Park Service to manage and protect the range while preserving the important historic and esthetic values of Capitol Reef National Park.

Thank you very much for the opportunity to testify on behalf of this legislation today, Mr. Chairman.

[The prepared statement of Senator Garn follows:]

Statement by Sen. Garn on S. 1872

Senator Wallop, members of the Subcommittee on Public Lands and Reserved Water, I am pleased to be here today with Commissioner Dell LeFevre of Garfield County and Guy Pace of Wayne County, who are representing stockmen affected by the scheduled phaseout of grazing in Capitol Reef National Park. Also here today is Dr. James Bowns of Southern Utah State College--an internationally recognized expert on range management, and of course my colleague Senator Hatch.

Mr. Chairman, before getting into the specifics of what this bill is intended to accomplish, I believe it is important for the committee to understand the nature of the area and the significance of livestock grazing to the people of Wayne and Garfield Counties and for that matter, the people of southern Utah generally. Livestock grazing is a way of life; it has been the economic lifeblood of the majority of people in these two counties for over 100 years. Lands within the two counties are almost entirely federally owned. (Wayne County- 87.3% federal, 9% state, 3.6% private, Garfield County--91.8% federal, 7% state, 1.2% private.) (Source: Utah State Planning Office.) Wayne and Garfield Counties are now among the most economically depressed in the state with per capita incomes of $5,360, or 61% of the national average, and $5,830, or 67% of the national average, respectively, based on 1980 figures. (Source: Utah State Planning Office.) In this high altitude area, farming on private lands is difficult because of the short growing season--90 days--and consists mainly of alfalfa production for winter cattle feed. Tourism is the other main source of revenue for this area. Thus, livestock production from public rangelands is the dominant industry in these two counties.

At the time Capitol Reef National Park was established in 1971, many southern Utahns waited anxiously to see how their new neighbor would fit into their lifestyle. Anxious because they hoped for an increase in tourism but also because they knew the establishment of the Park meant new restrictions on the public lands. Animosity had already developed over President Lyndon Johnson's 1969 proclamation which increased by six times the land area of the Capitol Reef National Monument. This expansion came in the last 90 minutes of his term and without public comment on the impact such a Presidential edict would have on the local communities. So, with the formal establishment

(2)

of a National Park two years later, local feelings ran high. I should make clear at the outset that it is not my intention to question the establishment of Capitol Reef National Park. Quite the contrary, Capitol Reef is a beautiful park set aside primarily to protect the country's most spectacular geologic monocline--the Waterpocket Fold. In fact, it is the length of this monocline, some 100 miles, that makes Capitol Reef unique from other National parks. The simple fact is, that running north to south and located in the center of Wayne and Garfield Counties, Capitol Reef National Park literally bisects them. It is impossible to travel from one side of each county to the other without going through the confines of the park. Because of this dramatic and unavoidable impact of the Park, I believe it is essential to the well-being of these two counties, and consistent with Interior Department policy, for the National Park Service and the BLM to continue to work with each other and be good neighbors to the local communities. Extension of the grazing phaseout is consistent with a good neighbor approach.

The members of the committee should be made aware of past efforts by these hard-working and diligent people to diversify their economy and lessen their dependency on the livestock industry as a chief source of subsistence. In the mid-1970's, local communities in Wayne County welcomed the opportunity to be considered by the Intermountain Power Association as a potential site for a new coal-fired power plant. However, because of its proximity to Capitol Reef, the proposed Salt Wash site was unable to meet strict Clean Air Act permitting requirements and and the plant site had to be relocated away from southern Utah National Parks. In another instance, an unsuitability determination by the Secretary of Interior for proposed coal mining near Bryce Canyon National Park has indefinitely delayed development and new job opportunities for southern Garfield and northern Kane counties. It is evident that environmental laws designed to protect National Parks have prevented local communities from diversifying their economics away from near total dependence on the livestock industry. I do not oppose reasonable protection for our National Parks, but we must allow the people who live next to them the opportunity to carry on with productive, clean, non-polluting livestock production. Prohibiting power plants and coal mines already has undermined the economic vitality

and efforts at economic diversity in these counties, and I cannot sit idly by and watch while livestock grazing at Capitol Reef is ended as well.

Accordingly, I believe my bill recognizes the importance of continued grazing in the Park until hopefully other opportunities for economic diversification become available.

With respect to grazing in Capitol Reef, let me emphasize the following points: According to the National Park Service, (1) Grazing in Capitol Reef takes place primarily in remote parts of the park away from the vast majority of visitors. (2) Grazing occurs within the Park from November through May when visitation is at a low ebb in the Park. (In 1981, only 148,000 of a total of 430,000 visitors to the Park-30%-visited while cattle were present.) Interestingly, many tourists who do visit the park and surrounding areas as the cattle are being trailed-out have said that they are delighted to see this historical part of the "Old West" in action.

Mr. Chairman, my purpose, therefore, in introducing this bill is to address serious inequities in this current grazing schedule; a schedule I believe to be unduly harsh. From the perspective of the permit-holders, BLM reports up to 45 ranching families (some of whom are joint owners of a ranch holding a grazing permit) would be directly affected by the termination of grazing. For many of these ranchers, termination would fall at or near the mid-point of their productive ranching careers, and would effectively force them to abandon their chosen vocation. Many of them would be forced to sell their livestock and perhaps their base operating land and facilities under forced sale conditions at a significant loss.

P.L. 92-207 provides for a phaseout of livestock grazing following expiration of the then-current permits and one period of renewal. Implementation of this provision has taken the form of a schedule calling for one 10-year renewal for holders of 10-year permits and ten 1-year renewals for holders of 1-year grazing permits. All these permits will be terminated between May 31, 1982 and May 31, 1992. Two ranchers have already been phased out under the terms of this law. The purpose of

S. 1872 is to remedy that unfortunate situation.

My bill is patterned almost identically after the Grand Teton National Park statute and is consistent with language used in the original Senate bill S. 29, authorizing Capitol Reef in 1971. Significantly, S. 1872 is consistent with the intent of the original statute as expressed by the Chief sponsors, Congressman McKay and Senator Moss. (House testimony record pp. 22,31, June 14, 1971.)

S. 1872 will allow a permit-holder to renew his permit for a period of twenty-five years from the date of establishment of the Park and thereafter during the lifetime of the permit-holder and the lifetime of his heirs. This approach to a phase-out of grazing, if there has to be one, is fair and humane. It recognizes grazing for its historical longevity and for its value as the livelihood to individuals pursuing that way of life. It recognizes the family nature of the operation of ranching, which played such an important role in the Old West and still characterizes the family life of a large number of Utahns today.

Finally, Mr. Chairman, I must point out that the only alternative remaining to the National Park Service if we do not pass this act and change the present phase-out schedule, is to go in and fence off the Park to proscribe trespassing. This could mean anywhere from 35 to 75 miles of fence at a cost of over $4000 per mile. This would mean a $200,000 federal expenditure if we assume 50 miles of fence, plus maintenance costs. Surely the Park Service would prefer to maintain the park in a more natural state than the miles of new fence would provide. Prudence would point to continuing to let the Waterpocket Fold act as a natural barrier to the cattle.

But, forgetting the cost or the unsightliness of a fence, the real issue is fairness and equity. There is simply no reason to deny the existing permit-holders and their families access to the source of their life-blood. Continued grazing poses no threat to the Park; the Park cannot be allowed to pose a threat to reasonable grazing privileges.

In summary, I believe the legislation I am proposing will allow the BLM to continue to work in a cooperative way with the Park Service to manage and protect the range while preserving the important historic and esthetic values of Capitol Reef National Park. I ask for favorable consideration by this committee. Thank you.

Senator WALLOP. Thank you. I appreciate the problem with the grazing. To be honest about it, I don't see that as a detriment to the scenery of the environment of the West. People going to Grand Teton National Park see cattle on the way in. Now in some instances there are vast expanses of land unused either by wild beast or domestic, and often people make comment as to what happens on those areas. Aside from that, if it is an historic use of an area, one of the purposes of the national parks in this country is to preserve historic use and preserve historic values to the extent that that can be done without harming the land. Presumably they have been left reasonably without harm or there wouldn't be a grazing issue, and it would seem there is no—there probably is an objection by some, but I really believe that on reflection, people would recognize that it isn't devastating to the purposes of the park or the reasons for which it was set aside in the first place.

Orrin, I would be happy to hear from you.

STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM THE STATE OF UTAH

Senator HATCH. Thank you, Mr. Chairman. I really appreciate being here with my distinguished colleague, my senior Senator and other members of the subcommittee. I am pleased to be here today to explain why I have joined with my colleague, Senator Garn, to sponsor S. 1872.

This bill would modify, as Jake has said, Public Law 92-207 which established Utah's Capitol Reef National Park in 1971 by lengthening the unusually short schedule provided in the 1971 law to phase out grazing of the cattle in the park.

I join Senator Garn in assuring this committee that I have no intention of doing anything in this bill except to give more time to the 40 to 45 ranching families who have for many years been grazing their livestock in this area.

The Federal Government has recently been engaged in a concerted effort to be "good neighbors." With Federal ownership of, as Jake said, 92 percent of Garfield County and 87 percent of Wayne County, Utah, the Federal Government is the neighbor. It is almost exclusively the neighbor there. That is why it seems to me it is so important for the Federal Government to extend the period of time allowed for these two counties to absorb the significant economic loss that they will face when livestock grazing is virtually eliminated in the park.

I just want to emphasize, Mr. Chairman, that Wayne and Garfield counties in southern Utah have always been considered livestock production areas. Among other things, grazing on public land is a keystone of the local economy. As Senator Garn has said, many efforts to develop other resources in these counties have been thwarted. Tourism, of course, is welcomed by the counties and tourism has some future potential for growth in the area, but significantly there is no correlation between a phaseout of grazing in Capitol Reef National Park and increased tourism. It is not a tradeoff. Grazing reductions now scheduled will be a hard economic blow to these counties. Continued grazing in my opinion will not interfere with those who wish to enjoy the park, and I particularly

appreciate your good comments with regard to that. In fact, I think it enhances the enjoyment of those who want to enjoy the park.

This legislation which Jake and I are sponsoring will further our much needed good neighbor policy without costing the Federal Government. To the contrary, the bill will preserve a much needed tax base for local, State, and Federal taxes as well as continuing the collection of grazing fees for the stockmen who would be allowed more years to make the adjustments to get out of the ranching business.

S. 1872 will accomplish what the entire Utah congressional delegation thought was being done back in 1971 when the park was established regarding the phaseout of grazing. It will allow those ranchers operating in the park on the date that it was established and any member of their immediate families who were involved in the ranching operation in 1971 to continue their permits to graze for 25 years, and thereafter throughout their lifetime. The bill will not in any way expand the number of lifestock grazed within the park.

This phaseout schedule is the same schedule established for the Grand Teton National Park, as Jake has said. Again, Mr. Chairman, Congress has a unique opportunity in S. 1872 to show a sincere concern for 40 to 45 ranching families, the related businesses which depend on agriculture in these rural areas, the concern for the tax base, and to be a "good neighbor" by treating these grazing permit holders equal to graziers in the Grand Teton National Park. All this can be done at no cost to the Government, no injury to the park resource, and without establishing any undesirable precedent for the objectives of the National Park Service, so I urge that S. 1872 be given favorable consideration, and compliment my colleague on his efforts in this regard, and of course compliment you, Mr. Chairman, for your good efforts that you have made continually as a leader in the Senate in these areas.

We certainly appreciate it.

[The prepared statement of Senator Hatch follows:]

From the office of

SEN. ORRIN HATCH

Washington, D.C. 20510

HATCH URGES FEDERAL-STATE "GOOD NEIGHBOR POLICY"

STATEMENT BY SEN. ORRIN HATCH (R-UTAH) BEFORE ENERGY SUBCOMMITTEE ON PUBLIC LANDS & WATER, APRIL 14, 1982

Senator Wallop, members of the subcommittee, I am pleased to be here today to explain why I joined with my distinguished colleague, Senator Garn, to sponsor S-1872. This bill would modify Public Law 92-207 which established Utah's Capitol Reef National Park in 1971 by lengthening the unusually short schedule provided in the 1971 law to phase out grazing of cattle in the park.

I join Senator Garn in assuring this committee that I have no intention of doing anything in this bill except to give more time to the 40 to 45 ranching families who have for many years been grazing their livestock in that area.

The federal government has recently been engaged in a concerted effort to be "good neighbors." With federal ownership of 92 percent of Garfield County and 87 percent of Wayne County, Utah, the federal government is the neighbor, almost exclusively. That is why, it seems to me, it is so important for the federal government to extend the period of time allowed for these two counties to absorb the significant economic loss they will face when livestock grazing is eventually eliminated in the park.

I just want to emphasize, Mister Chairman, that Wayne and Garfield Counties in Southern Utah have always been considered livestock production areas. Grazing on public lands is a keystone of the local economy.

As Senator Garn has said, many efforts to develop other resources in these counties have been thwarted. Tourism is welcomed by the counties..and tourism has some future potential for growth in that area.

But significantly, there is no coorelation between a phaseout of grazing in Capitol Reef National Park and increased tourism. It is not a tradeoff. Grazing reductions now scheduled will be a hard economic blow to these counties. Continued grazing will not interfere with those who wish to enjoy the park.

This legislation I am sponsoring will further our much needed "good neighbor policy" without costing the federal government. To the contrary, the bill will preserve a much needed tax base for local, state, and federal taxes, as well as continuing the collection of grazing fees for the stockmen who would be allowed more years to make the adjustments to get out of the ranching business.

S-1872 will accomplish what the entire Utah Congressional delegation thought was being done in 1971 when the park was established, regarding the phaseout of grazing. It will allow those rachers operating in the park on the date it was established, and any member of their immediate families who were involved in the ranching operation in 1971 to continue their permits to graze for 25 years and thereafter, throughout their lifetime. The bill will not, in any way, expand the number of livestock grazed within the park.

This phaseout schedule is the same schedule established for the Grand Teton National Park.

Again, Mister Chairman, Congress has a unique opportunity in S-1872 to show a sincere concern for 40 to 45 ranching families, the related businesses which depend on agriculture in these rural areas, concern for the tax base and to be a "good neighbor" by treating these grazing permit holders equal to graziers in the Grand Teton National Park. All this can be done at no cost to the government, no injury to the park resource, and without establishing any undesirable precedent for the objectives of the National Park Service.

I urge S-1872 be given favorable consideration.

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Senator WALLOP. Thank you both very much. We will proceed with the hearing as scheduled. I have a sympathetic ear to the proposal that you make. I would be interested to hear what other witnesses may have to say.

Senator GARN. I do have one more request. Congressman Hansen of our State has a statement he would like included in the record.

I also have numerous letters from people in our State who support the legislation. If possible, I would like those included in the record.

Senator WALLOP. Without objection, they will be included in the record.

Thank you both very much for coming down.

[The material submitted for the record by Senator Garn follows:]

THE TESTIMONY OF CONGRESSMAN JAMES V. HANSEN

Mr. Chairman, I am grateful for the opportunity to testify before this committee concerning the extension of grazing permits within the Capitol Reef National Park.

The park is located in south-central Utah. This area has historically been intensivly ranched. It was first settled in the late 1800's by pioneers who depended on ranching for their livelihood. This continues to be true today. The ranching industry plays a vital role in the economy of the two counties in which the national park is located. There are three points that I would briefly like to touch upon which I feel are worth considering.

First, I think it is important that a closer look be taken at the original 1971 act phasing out grazing. If we review the testimony given both in the House and in the Senate, and the two bills that went to the conference committee, it is evident that the intent of Congress was that the phaseout be handled in Capitol Reef as it was in the Grand Tetons. It was only after the conference committee that the intent was altered.

Second, there are some who claim and continue to maintain that the livestock currently grazing within the park boundries have damaged the integrity of the park. However, it is difficult to believe that professionals who have spent the majority of their lives managing grazing land would allow overgrazing and thus jeopardize their livelihood. More than anyone else, these ranchers keenly recognize that they are

privileged to be allowed to use federal lands to graze their livestock, and they know that this is a privilege that may be revoked at any time. Frankly, it is in their own best interest to be good stewards of these lands. I personally feel they are doing an excellent job.

Finally, these ranchers represent the working American, the backbone of this nation. They are the producers. They have, in the past, paid for the right to graze on federal land and remain willing to do so. Can we in good conscience refuse these people the privilege and right to use federal lands when we have allowed others, in similar circumstances, to do so? The cause is just and they have made a reasonable request. They ask only to be treated in a similar fashion to those ranchers using lands within the Grand Tetons National Park.

I urge you to consider their situation and ask that you favorably refer this bill to the Senate floor. I think that a great injustice has been done, and we now have the opportunity to correct this injustice before it affects these ranchers any further. Thank you Mr. Chairman.

STATE OF UTAH
OFFICE OF THE GOVERNOR
SALT LAKE CITY
84114

SCOTT M. MATHESON
GOVERNOR

April 14, 1982

The Honorable Jake Garn
U. S. Senate
5207 Dirksen Office Building
Washington, D.C. 20515

Dear Senator Garn:

I have had the opportunity to review S. 1872, your proposed legislation to extend the grazing phaseout schedule for Capitol Reef National Park. The State has been reviewing the grazing situation in Capitol Reef National Park for several months now and has concluded that legislative action is necessary and appropriate.

Let me assure you that we support passage of S. 1872 or similar legislation. If we can provide any assistance or information, please contact my office.

Sincerely,

Governor

SMM:jb

merican Farm Bureau Federation

WASHINGTON OFFICE
600 MARYLAND AVE., S.W.
SUITE 800
WASHINGTON, D.C. 20024
AREA CODE 202 - 484-2222

April 14, 1982

The Honorable Malcom Wallop, Chairman
Subcommittee on Public Lands and Reserved Water
Committee on Energy and Natural Resources
United States Senate
Washington, DC 20510

Dear Senator Wallop:

S. 1872, introduced by Senators Jake Garn and Orrin Hatch of Utah, would modify P. L. 92-207, establishing the Capitol Reef National Park, by extending the time period for eliminating grazing of domestic livestock in the Park.

In January, 1982, voting delegates to the American Farm Bureau annual meeting in San Diego, California, adopted the following policy:

> "We favor a modification of the grazing phaseout schedule in Capitol Reef National Park to provide equitable treatment between Capitol reef graziers and the graziers in Teton National Park."

S. 1872 would accomplish the goals set forth in the above policy. It would reduce taxpayer expense by eliminating the need for extensive fencing of Park boundaries; it would continue the collection of grazing fees from permittees; and most significantly, S. 1872 would prevent a very serious additional economic blow to Wayne and Garfield Counties, two of Utah's most economically deprived counties. The bill would allow apporoximately 40 to 45 ranching families to continue their business of livestock production for an extended period of time.

We emphasize that permitted grazing in Capitol Reef Park is a winter season (off-tourist season) use and is not in conflict with any recreational value of the Park.

Moreover, expert analysis by competent resource managers clearly shows that livestock grazing in the Park, under the current Bureau of Land Management system, does not harm the natural or historical values of the Park.

We urge the Congress to adopt S. 1872.

Sincerely,

John Datt

John C. Datt
Secretary and Director
Washington Office

UTAH FARM BUREAU FEDERATION

5300 South 360 West • P.O. Box 30045
Salt Lake City, Utah 84130 • Telephone (801) 261-2424

April 13, 1982

The Honorable E. J. Jake Garn
United States Senate
Washington, DC 20510

Dear Senator Garn:

This letter is to express the full support of the Utah Farm Bureau Federation for S. 1872, the bill which you have sponsored at our request to extend the grazing phaseout schedule in the Capitol Reef National Park.

Attached hereto is a background paper outlining the details of this important issue. In summary, the bill you have sponsored will make the planned livestock grazing phaseout schedule for Capitol Reef National Park graziers equitable with the schedule used in establishing the Teton National Park.

Your bill would prevent a very serious economic impact to the Wayne and Garfield County area which would result from the current Public Law 920207, which S. 1872 would amend.

Moreover, your bill will avoid a significant expense to taxpayers to construct many miles of fence around the Capitol Reef Park which would be necessary without your bill.

Fortunately, your bill will not in any way create any conflict in the use of the natural resources in CRNP. There is not now any conflict between existing grazing patterns and tourism and grazing, managed as it currently is, will not in any way harm the natural or historical values of the park. The forage resources in the park are in an improved condition as the result of careful grazing management by the Bureau of Land Management.

Again, on behalf of the 16,000 member families in the Utah Farm Bureau Federation, which membership includes virtually every grazier now holding grazing permits in the Capitol Reef National Park, we express our full support for S. 1872 and urge its adoption by Congress.

Respectfully,

C. Booth Wallentine

C. Booth Wallentine
Executive Vice President

Utah Cattlemen's Association
Publishers of The Utah Cattleman

One-fifty South Sixth East • Salt Lake City, Utah 84102 • 355-5748
Suite 108

March 4, 1982

Senator Jake Garn
Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Garn:

This letter addresses our concern and united feelings on the Capitol Reef National Park Livestock Grazing Issue. In the last 90 minutes of his presidency, on January 21, 1969, President Lyndon B. Johnson issued Presidential Proclamation number 3888 enlarging the Capitol Reef National Monument in Wayne and Garfield counties in Utah to 245,229 acres, approximately six times its original acreage.

Subsequently, on December 18, 1971, Congress enacted Public Law 92-207 designating the enlarged monument as a National Park. Section 3 of the law provided for a phase-out of livestock grazing following the expiration of the then-current permits "and one renewal thereafter." With this direction, all grazing is to be terminated no later than May 31, 1992.

There are 45 ranch families directly affected by the termination of grazing in Capitol Reef National Park. The economic impact in the two rural counties would be around $500,000 annually; however, of more significance is the direct impact on the individual ranchers. The majority of these families have been grazing cattle on this same land even before statehood in Utah. Their ancestors were the first to settle and tame the west; many giving their lives for a dream and legacy for their posterity. These family ranches were established before we had public lands or national parks and have adjusted their operations around new legislation; however, for many of these ranchers termination, without compensation of their previously purchased grazing rights, will force them to sell their livestock, and perhaps their base operating land

and facilities, under "forced sale" or distressed conditions. We can not think of a more unjustifiable, objectionable, and immoral fate for such an American asset.

Therefore, our first belief on this issue is grazing rights are and should be recognized as inherent rights similar to water rights. Ranchers love the land and the opportunity to produce food for the world, but unless Congress is more reasonable, ranching in the West, as it has been known, will die. Current grazing rights should not be disturbed unless a very serious problem of proper range management is detected.

Secondly, when reviewing similar objectionable grazing phase-out programs in other national parks, such as Grand Teton, permittees in Capitol Reef have been unreasonably treated when considering the timing of the phase-out.

Finally, there is no basic conflict between tourist or nature study usage of the park and livestock grazing as seasonal usage are different. Range scientists and public land specialists believe the condition of forage within the park has significantly improved over the past 20 years and has an upward trend for the future. The unique formations with Capitol Reef National Park are not susceptible to damage by domestic livestock grazing. Natural barriers, coupled with available forage and existing management programs, have proven the compatibility of continued livestock grazing and maintenance of the park values.

We are not politically unreasonable, and although our first endorsement would be an enactment of grazing rights similar to water rights, the following requested action by Congress has our full support:

1. Amend PL 92-207 to provide CRNP permittees equity with Grand Teton National Park's grazing permittees by amending section 3 of the Act to read as follows:

> ... Where any Federal lands included within the park by this Act were legally occupied or utilized on the date of approval of this Act for grazing purposes, pursuant to a lease, permit, or license issued or authorized by any department, establishment, or agency of the United States, the person so occupying or utilizing such lands and the heirs, successors, or assigns of such person, shall, upon the termination of such lease, permit, or license, be entitled to have the privileges so possessed or enjoyed by him renewed from time to time, subject

to such terms and conditions as the Secretary of the Interior shall prescribe, for a period of twenty-five years from the date of approval of this Act, and thereafter during the lifetime of such person and the lifetime of his heirs, successors, or assigns but only if they were members of his immediate family on such date, as determined by the Secretary of the Interior:...

2. Reconsider the basic question of whether it should be public policy to completely eliminate livestock grazing in the entirety of Capitol Reef National Park, in view of the arguments on compatibility of grazing with the resource values in this particular park, the limited access to traditional tourists, the exhorbitant fencing costs necessary to adhere to the park boundaries, the severe economic impact such federal policy will place upon the local economy, and the need to maintain maximum beef production through the use of rangeland resources.

3. Prohibit the use of any federal, state or local government funds, or funds provided by any other means, to implement the planned grazing phaseout of livestock grazing in Capitol Reef National Park, pending full consideration of the requests listed above.

If you need more specifics on this issues we would be happy to provide such. Thank you for reviewing our position and we sincerely hope that the true spirit of this issue will inspirit your actions as it has pierced ours.

Respectfully yours,
UTAH CATTLEMEN'S ASSOCIATION

Bradley Johnson
President

Michael R. Sibbett
Executive Vice President

cc: Utah Congressional Delegation
Senator Jesse A. Helms
Senator Walter Huddleston
Representative E. de la Garza
Representative William Wampler
Representative Morris Udall
Representative Jerry Huckaby
Representative Manuel Lujan
Secretary James G. Watt
Asst. Secretary Garrey Carruthers

95-870 O - 82 - 4

R E S O L U T I O N

WHEREAS, the management plan of the National Park Service intends to revoke all grazing rights within the Capital Reef National Park by 1992; and

WHEREAS, current park objectives will eliminate all grazing in the park and that one-year permits will be phased out in 1982, and that ten-year permits will be renewed only once in 1982; and

WHEREAS, acres in Capital Reef which are presently managed by the National Park Service have received federally financed range improvements that will either be removed or left unused when grazing is completely eliminated;

BE IT RESOLVED by the Utah Association of Counties convened this 25th day of March, 1982, that we formally go on record as supporting legislation which would alter the management plan for Capital Reef National Park to include language and terms consistent with the plan for the Teton National Park as it relates to the phase out of grazing rights.

Feb. 26, 1982
Boulder, Utah

The Honorable United State Senator
Mr. Jake Garn:

It appears that the final decission as to livestock grazing in Capitol Reef National Park has not been reached as yet, I would like to let those who are still interested know as to the financial effect the cancellation of my grazing right in the park will have on my operation. The amount of A.u.m - 624 on Federal land and 630 on State land are the winter grazing for 98 cattle from Nov. 1 to May 31. this grazing take care of 40% of the grazing need of my ranch operation for the months above mentioned. Without this grazing or other forage to replace it I would have to reduce my cow herd by aprox. 40% because without this grazing I would have to raise feed to replace this or use summer pasture to raise winter feed.

For the last five years my gross income has been approximately $45,000 leaving me a net income of about $12,000 to $15,000. Taking a reduction of 40% on this income would leave me with an income of about $9000 but since the operating expence of my operation would not very likely be less I might well come out with a gross income of $30,000 or less and a Net income of practically nothing I believe other livestock ranchers grazing in the Capitol Reef Park would suffer much the same financial loss and some even more. Thanks for your Concern and help in this serious problem.

Yours Truly

Ivan Hyman

UTAH STATE UNIVERSITY
EXTENSION SERVICE

IN COOPERATION WITH COUNTY COMMISSIONERS
AND U. S. DEPARTMENT OF AGRICULTURE

JUNCTION, UTAH
March 19, 1982

Honorable Jake Garn
Dirksen Senate Office Bldg.
Room 4203
Washington, D.C. 20510

Dear Mr. Garn:

Booth Wallentine, Utah Farm Bureau Federation, asked that I respond to you concerning the current impact of grazing within Capital Reef National Park.

I have been visiting the desert ranges in the Wayne County area since 1961. During these years the ranges have generally been improving and in an upward trend. The ranchers have made advances in their management of the grazing allotments and have been willing to adapt to changes which would improve the plant communities.

In my judgement, the continued grazing of livestock inside Capital Reef would not be detrimental to the Park resources or the traditional uses of national parks. I am not aware of any current range condition deterioration within the park boundary.

Livestock grazing inside Capital Reef has historically been very important to the economy of this area. I suggest that livestock grazing is as historically significant as the orchards and farms at the Park headquarters.

I would not hesitate to recommend continued livestock grazing in Capital Reef.

Sincerely,

Vern Bagley
Piute & Wayne County Extension Agent

cc: Representative Dan Marriott
Representative James Hansen
Senator Orrin Hatch

Canyonlands Soil Conservation District
Boulder, Utah 84716

GARY HAWS
Chairman

Honorable Jake Garn
United States Senate
Washington 25, D.C.

March 25, 1982

Dear Senator Garn:

As you are aware soil and water conservation districts are charged with, and concerned about, the preservation of our natural resources. The people we assist are also concerned about vegetative cover and the prevention of soil erosion and degradation of water quality.

With that as a background we feel the permittees who graze our public lands do not abuse conditions on the range. They are aware that over use produces unsightly conditions as well as deterioration of the quality of their livestock.

We feel there is a good balance under present grazing rights and would support you in your bill to "extend the period of grazing on Capitol Reef National Park". The concept behind your bill is concrete and evident that you are concerned about multi-use concepts on our public lands.

Thank you.

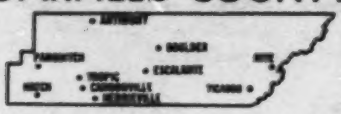
Sincerely,

Gary W. Haws.

Gary W. Haws, Chairman
Canyonlands Soil Conservation District

COUNTY COMMISSION
George Middleton, Chairman
Guy W. Thompson
H. Dell LeFevre
Edra Miller, Clerk

GARFIELD COUNTY



PANGUITCH, UTAH 84759

Doyle V. Cottam, Assessor
Patrick B. Nolan, Attorney
Mamie D. Hatch, Recorder
Marie Stowell, Treasurer
Vic Middleton, Sheriff
John W. Yardley, Justice of the Peace

March 22, 1982

Senator Jake Garn
5121 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Garn:

The Garfield County Commission wishes to go on record supporting the retention of grazing in Capitol Reef National Park.

We have seen the federal government degrade our local economy inch-by-inch through these kinds of actions. Grazing in Capitol Reef has been an integral part of our economy for generations. It helps provide the livelihood for many Garfield County ranchers who would suffer greatly should they be denied grazing rights in Capitol Reef.

Grazing creates no conflict with the Park or its operations. The fact is that the areas used for grazing are well removed from visitor areas.

Senator, we appreciate your efforts in seeking an acceptable solution in the Senate to the grazing issue in Capitol Reef. Please be assured that each rancher whose economic survival rests in the balance appreciates your action as well.

Sincerely,

George Middleton
Chairman

H. Dell LeFevre

Guy W. Thompson

VM:jj

INVESTMENT MANAGEMENT COMPANY
2708 H Road
GRAND JUNCTION, COLORADO 81501
(303) 243-8310

FEB [illegible] '82

February 1, 1982

Senator E.J. (Jake) Garn
United States Senate
Washington, D.C. 20510

Dear Senator Garn:

Mr. C. Booth Wallentine, Executive Vice President of the Utah Farm Bureau Federation, has informed me that you and Senator Orrin Hatch have introduced legislation which would extend the phaseout schedule for grazing in Capitol Reef National Park. Since condition of the ranges in and around the park is an important consideration in this matter, he has asked me to relate my opinion regarding the general condition of the subject rangeland.

This opinion is based on five years of service to the people of the State of Utah as Extension Range Specialist with Utah State University (1976-1981). During these past five years I was involved in numerous rangeland related activities including range tours with BLM personnel and local ranchers as well as BLM environmental impact assessments pertaining to rangelands in Wayne and Garfield Counties. I visited the subject areas several times during the drought in 1976 and 1977 as well as during periods of more favorable climatic conditions since that drought. I feel that my professional experience in the subject locale provides adequate basis from which to offer a professional opinion.

Although forage production fluctuates widely on these ranges through drought and favorable periods, this is to be expected on arid and semi-arid rangelands of Utah due to the climatic and soil characteristics of the region. When these inherent characteristics which determine the kind and amount of vegetation and historical use of the area by domestic livestock are given due consideration, it is my opinion that condition of the range is improving. Much of the area has limited potential for supporting vegetation due to inherent properties of the soils and limited amounts of precipitation. Much of these rangelands are currently supporting vegetation at or near potential which places them in advanced condition classes ecologically. The remaining areas of the subject rangelands having greater potential appear to be in intermediate to advanced ecological condition classes and improving. Generally, the entire range area being considered is in an acceptable state of range health and is improving. This can be attributed to the recent history of judicious use of these ranges. In addition, inherent site characteristics and natural phenomena appear to be the dominant determining forces affecting the area as it is being used now.

If I can be of any further assisstance in this matter please feel free to call on me.

Sincerely yours,

Roger E. Banner

Roger E. Banner

SOUTHERN UTAH STATE COLLEGE
CEDAR CITY, UTAH 84720

School of
Science

February 1, 1982

FEB 5 12 07 PM '81

Senator E.J. Garn
United States Senate
Washington, D.C. 20510

Dear Senator Garn:

I have been requested by Mr. Booth Wallentine, Executive Vice President, Utah Farm Bureau, to write and express my professional judgement of range conditions in and around Capitol Reef National Park. I have visited this area many times over the past 8-10 years and have evaluated range condition and trend in this area. These visitations have been at the request of county agents, county commissioners, local livestock operators and Bureau of Land Management (BLM) professionals, and in my role as Extension Range Management Specialist for Utah State University.

It is my opinion that these ranges are, in general, properly managed and the trend (our most sensitive indicator of current management practices) is up, which indicates that the range is improving. The ranchers in this area are sensitive to the critics of livestock grazing and are doing a good job of managing these ranges. I have collected no quantitative data in these areas, but I have reason to believe that BLM trend data collected within the park boundaries will support my subjective professional judgement.

I support efforts to extend the grazing phase out schedule and have testified to this effect at hearings in Wayne County when the original extension was granted.

If I can be of any assistance to you in this or other range management problems please feel free to call on me.

Sincerely,

James E. Bowns

James E. Bowns
Professor of Range Ecology

JEB:js
cc: Senator Orin Hatch
Representatives James V. Hansen, Dan Marriott
Mr. C. Booth Wallentine

Public Lands Council
Suite 1020
425-13th Street, N.W.
Washington, D.C. 20004
(202) 347-5355

National Cattlemen's Association
P.O. Box 569
(1001 Lincoln Street)
Denver, Colorado 80201
(303) 861-1904

National Wool Growers Association
600 Crandall Building
Salt Lake City, Utah 84101
Phone (801) 363-4483

April 14, 1982

The Honorable Jake Garn
U. S. Senate
Room 5207 Dirksen Senate Office Bldg.
Washington, D. C. 20510

Dear Senator Garn:

We wish to endorse the position of the Utah Cattlemen's Association with respect to the planned phase-out of livestock grazing within the Capitol Reef National Park in Utah. As you know, the Utah Cattlemen's Association recommends that Public Law 92-207 establishing this national park be amended so as to include a grazing phase-out schedule that has been used when other national parks were established. The Utah Cattlemen's Association also asks for a re-evaluation or reconsideration of whether it is necessary or desirable to eliminate livestock grazing from Capitol Reef National Park and the Association further requests that funds be denied for any phase-out until these two matters can be fully considered.

The 45 ranch families affected by the current law that will terminate all grazing no later than May 31, 1992 are being unfairly treated. The Senate-passed version of the Capitol Reef National Park legislation contained a phase-out schedule similar to that now being requested but the House version (which was upheld in conference) imposed a much more restrictive schedule.

There is no logical justification for the accelerated schedule, especially in the case of the Capitol Reef National Park. There has been livestock grazing in this area for several generations with absolutely no degradation of the qualities that led to the establishment of the park in 1971. It is ironical that park officials plan to allow fruit growing to continue within the park on the grounds it is "historical" but livestock grazing with its long and colorful history must be eliminated because of the misguided provision in the law.

It is also ironical because the livestock grazing that takes place takes place in a remote part of the park that has no unusual scenic, archeological, recreational or any value out of the ordinary. As a matter of fact, it is an area that is seldom visited by tourists or recreationists because there are no roadways or facilities (and no funds for such) and Park officials discourage any tourist entry into the area. But even if visitors did enter the area, they are not likely to encounter any livestock because the grazing occurs mostly in winter when the park is closed or before the main tourist season.

We find it difficult to believe that park visitors do or would object to the presence of livestock. We would point out that wilderness visitors do not object to livestock grazing which is allowed within units of the Wilderness Preservation system.

We would appreciate your continued efforts to find an equitable solution to this situation.

Sincerely,

Ronald A. Michieli cx

Ronald A. Michieli
Vice President, Natural Resources
National Cattlemen's Association;
Executive Director,
Public Lands Council

RAM:css

cc: Senator Orrin G. Hatch
Michael R. Sibbett, Utah Cattlemen's Association
Bradley Johnson, Pres., Utah Cattlemen's Assoc.
Don Meike, National Wool Growers Association
Marvin Cronberg, National Wool Growers Association
Bob Wright
Herb Metzger
Tye Moore

Senator WALLOP. Now we do have Ira Hutchison, Deputy Director of the National Park Service testifying on S. 1777.

Ira, if you wouldn't mind, we will do these one by one. If you can stay, I would appreciate it. You give us first S. 1777, then we will hear the rest of the witnesses on that, and then we will move to S. 1872 and hear the witnesses on that.

STATEMENT OF IRA J. HUTCHISON, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. HUTCHISON. Good morning, sir. Mr. Chairman, with deep apologies I must share the information with you regarding the administration or lack of the administration's position as of this moment on this particular legislation, proposed legislation.

As late as late last night we were in dialog with OMB trying to arrive at that position, and simply it did not occur. We would ask that we would anticipate that by tomorrow we would have an administration position, and include a statement of that position as we give the scheduled testimony for the Saratoga legislation.

Senator WALLOP. Yes. We will accept it under those circumstances, and I don't in my opening remarks necessarily lay anything on you or anybody in particular or any office in particular. It is just that it is peculiarly frustrating to try to conduct the business of the subcommittee without that, and I understand the problems that you have had with OMB.

You might pass the message back, and I will as well, that with all the other things that are going on in the country, OMB ought to be able to make up their mind on this easy, so I appreciate that.

Mr. HUTCHINSON. Thank you, sir.

[The prepared statement of Mr. Hutchison follows:]

STATEMENT OF IRA J. HUTCHISON, DEPUTY DIRECTOR OF THE NATIONAL PARK SERVICE OF THE DEPARTMENT OF THE INTERIOR BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, ON S. 1777, A BILL "RELATING TO THE ESTABLISHMENT OF A PERMANENT BOUNDARY FOR THAT PORTION OF THE ACADIA NATIONAL PARK AS LIES WITHIN THE TOWN OF ISLE AU HAUT, MAINE."

APRIL 14, 1982

MR. CHAIRMAN, THANK YOU FOR THE OPPORTUNITY TO PRESENT TO THE COMMITTEE THE VIEWS OF THE NATIONAL PARK SERVICE ON THIS INNOVATIVE LEGISLATION.

S. 1777 ADDRESSES THE ISLE AU HAUT PORTION OF ACADIA NATIONAL PARK IN KNOX COUNTY, MAINE. THE FUNDAMENTAL PURPOSE OF THIS LEGISLATION IS TO ESTABLISH, ONCE AND FOR ALL, A PERMANENT PARK BOUNDARY. WE SUPPORT THIS PURPOSE. IN FACT, WE BELIEVE THAT IT IS ALSO IMPORTANT THAT A PERMANENT BOUNDARY BE ESTABLISHED FOR THE REST OF ACADIA NATIONAL PARK, AS WELL. IT IS APPROPRIATE, HOWEVER, THAT ISLE AU HAUT BE SEPARATELY ADDRESSED BY THE CONGRESS. THE SUCCESSFUL SOLUTION TO THE BOUNDARY ISSUE AT ISLE AU HAUT WILL, WE HOPE, ENCOURAGE THE RESOLUTION OF SIMILAR ISSUES AT OTHER PORTIONS OF THE PARK.

UNDER EXISTING LAW THE SECRETARY OF THE INTERIOR IS AUTHORIZED TO ACCEPT DONATIONS OF LANDS, EASEMENTS, AND BUILDINGS WITHIN THAT PORTION OF KNOX COUNTY IN WHICH ISLE AU HAUT IS LOCATED. ACQUISITION THROUGH PURCHASE IS NOT AUTHORIZED. TODAY, THE ISLE AU HAUT PORTION OF THE PARK CONTAINS MANY HIGHLY SIGNIFICANT PROPERTY DONATIONS. HOWEVER, ALL THE PARK LANDS ARE NOT CONSOLIDATED INTO A SINGLE MANAGEMENT UNIT. SOME IMPORTANT PROPERTIES -- OFTEN PARTIALLY OR COMPLETELY SURROUNDED BY PARK HOLDINGS -- REMAIN IN PRIVATE OWNERSHIP; SOME PRIVATE LANDOWNERS COMPLAIN THAT SOME PARK VISITORS INADVERTENTLY TRESPASS ON THESE PRIVATE LANDS. SOME CITIZENS OF THE TOWN OF ISLE AU HAUT ARE CONCERNED THAT UNDER CURRENT LAW

PARK EXPANSION THROUGH DONATION OF FEE AND LESS-THAN-FEE INTERESTS WILL BE UNRESTRAINED IN THE FUTURE. AT THE SAME TIME, LARGE PARCELS OF NON-CONTIGUOUS PARK LAND LIE TO THE NORTH OF THE BULK OF THE PARK HOLDINGS AT ISLE AU HAUT.

S. 1777 ATTEMPTS TO RESOLVE THESE AND RELATED PROBLEMS ON BEHALF OF THE NATIONAL INTEREST IN PROTECTING PORTIONS OF ISLE AU HAUT, AND ALSO ON BEHALF OF THE LOCAL CONCERNS OF THE CITIZENS OF THE TOWN OF ISLE AU HAUT. FOR THE MOST PART, WE AGREE WITH THE PROPOSED SOLUTION. WE HAVE, HOWEVER, IMPORTANT RESERVATIONS. YET, IT IS OUR STRONG FEELING THAT THE THRUST OF THIS LEGISLATION IS CONSISTENT WITH PRINCIPLES OF THE LAND PROTECTION POLICIES CURRENTLY BEING DEVELOPED.

THE BILL WOULD DO THE FOLLOWING THINGS:

--ESTABLISH A PRECISE LEGISLATIVE BOUNDARY FOR THE PARK WITHIN THE TOWN, BY REFERENCE TO AN OCTOBER 1981 BOUNDARY MAP.

--AUTHORIZE ACQUISITION BY DONATION OR EXCHANGE OF THE LANDS AND INTERESTS THEREIN DEPICTED ON THE BOUNDARY MAP.

--REQUIRE THE SECRETARY WITHIN 90 DAYS TO CONVEY ALL LANDS AND INTERESTS OF THE UNITED STATES WHICH ARE OUTSIDE THE BOUNDARY BUT WITHIN THE TOWN OF ISLE AU HAUT TO THE TOWN.

--AUTHORIZE THE SECRETARY TO ACCEPT DONATIONS OF EASEMENTS OUTSIDE THE BOUNDARY IF SUCH EASEMENTS ARE DONATED TO A PRIVATE CONSERVATION TRUST. THE PARK SUPERINTENDENT WOULD SERVE ON THE TRUST.

--IMPOSE CERTAIN MANAGEMENT RESTRICTIONS ON PARKLANDS WITHIN THE TOWN.

OUR COMMENTS ON THESE PROVISIONS FOLLOW:

LEGISLATIVE BOUNDARY. WE SUPPORT THE BOUNDARY REFERRED TO IN THE BILL. THE AUTHORIZED BOUNDARY WOULD INCLUDE APPROXIMATELY 3,000 ACRES, OF WHICH 302 ACRES ARE PRIVATELY OWNED OR OWNED BY THE TOWN; THE REMAINDER IS PARK LAND.

ACQUISITION AUTHORITY. THE OWNERS OF MOST OF THE NON-FEDERAL LANDS WITHIN THE BOUNDARY HAVE INDICATED A WILLINGNESS TO DONATE OR EXCHANGE THEIR LANDS. HOWEVER, THE OWNERSHIP OF A PARTICULAR ONE-QUARTER ACRE PARCEL IS UNCLEAR. IT APPEARS TO BE HELD IN SEVERAL OWNERSHIPS. WE ANTICIPATE THAT THIS PARCEL WILL HAVE TO BE PURCHASED THROUGH EMINENT DOMAIN PROCEEDINGS IN ORDER TO CLEAR TITLE. NO CURRENT LAND COST ESTIMATES FOR THIS TRACT CAN BE PREPARED SINCE THE SERVICE LACKS THE FUNDS FOR THIS PURPOSE. WE BELIEVE, HOWEVER, THAT THE COST OF THIS SINGLE TRACT WOULD BE LESS THAN $50,000. ACCORDINGLY, THE BILL SHOULD BE AMENDED TO AUTHORIZE ACQUISITION OF THIS TRACT AND TO AUTHORIZE AN APPROPRIATION FOR THAT PURPOSE.

DISPOSAL OF LAND OUTSIDE NEW BOUNDARY. THE LANDS REQUIRED TO BE DISPOSED OF TO THE TOWN COMPRISE ABOUT 375 ACRES. THE SECRETARY IS REQUIRED TO CONVEY THE LANDS WITHIN 90 DAYS, BUT THE CONVEYANCE IS SUBJECT TO MUTUALLY AGREEABLE COVENANTS. THE BILL IS UNCLEAR AS TO WHICH PROVISION IS CONTROLLING: THE DEADLINE FOR CONVEYANCE, OR MUTUAL AGREEMENT ON COVENANTS. WE WOULD PREFER NO DEADLINE FOR CONVEYANCE, BUT WOULD NOT OBJECT IF THE CONVEYANCE IS REQUIRED UPON ACQUISITION OF THE BULK OF THE 302 ACRES OF NON-FEDERAL LANDS -- ENOUGH IN THE OPINION OF THE SECRETARY TO CONSTITUTE AN ADMINISTRABLE UNIT -- WITHIN THE NEW BOUNDARY.

ACCEPTANCE OF EASEMENTS OUTSIDE NEW BOUNDARY. UNDER EXISTING LAW, WE HAVE AUTHORITY TO ACCEPT EASEMENTS THROUGHOUT THE TOWN. THE BILL PROPOSES, ON THE ONE HAND, TO CONFINE OUR AUTHORITY TO ACCEPT PROPERTY ONLY TO THE AREA WITHIN THE NEW BOUNDARY, YET ON THE OTHER HAND THE BILL AUTHORIZES US TO ACCEPT EASEMENTS OUTSIDE THE NEW BOUNDARY IF WE ACT AS CO-HOLDER WITH THE LOCAL LAND TRUST FOR ENFORCEMENT PURPOSES. WE WOULD PREFER NOT TO ENFORCE EASEMENTS OUTSIDE THE NEW BOUNDARY. WE RECOMMEND THAT THIS PROVISION BE DELETED. IF LANDOWNERS WISH TO ENCUMBER THEIR LANDS OUTSIDE THE PARK, THEY CAN WORK WITH THE STATE OR OTHER PUBLIC AND PRIVATE ENTITIES TO ACCOMPLISH THEIR PURPOSE. WE NOTE THAT THE TAX TREATMENT EXTENSION ACT OF 1980 PROVIDES GIFT TAX INCENTIVES FOR DONATIONS OF THIS KIND, DONATIONS WHICH FURTHER ESTABLISHED GOVERNMENTAL CONSERVATION POLICIES. ON THE OTHER HAND, WE SUPPORT THE CONCEPT OF A TRUST HOLDING AND ENFORCING EASEMENTS SINCE THIS BILL WOULD ELIMINATE THE AUTHORITY OF THE UNITED STATES TO RECEIVE AND HOLD EASEMENTS ITSELF. WE HAVE NO OBJECTION TO THE PARK SUPERINTENDENT'S ROLE AS A MEMBER OF THE TRUST, BUT NOTE OF COURSE THAT HIS OR HER RESPONSIBILITIES AS TRUSTEE ARE DISTINCT FROM HIS OR HER RESPONSIBILITIES AS SUPERINTENDENT. THE GROWTH OF THE PRIVATE LAND TRUST CONCEPT AND ITS POTENTIAL WITH REGARD TO PROTECTING AREAS OF NATIONAL IMPORTANCE -- INCLUDING AREAS ADJACENT TO OUR NATIONAL PARKS -- IS OF REAL INTEREST TO US. WE APPLAUD THE POSSIBLE USE OF THIS APPROACH AT ISLE AU HAUT.

WHILE WE FEEL STRONGLY THAT THESE TRUSTS SHOULD NOT BE MANAGED BY THE NATIONAL PARK SERVICE, WE ARE CONCERNED WITH THEIR EFFECTIVENESS. MR. CHAIRMAN, WE WOULD LIKE TO WORK WITH YOU FURTHER ON THE CONSTRUCTION AND PURPOSES APPROPRIATE TO SUCH A TRUST IN THIS CASE.

MANAGEMENT RESTRICTIONS. CERTAIN OF THESE PROVISIONS RAISE MANAGEMENT CONCEPTS AND PHILOSOPHY TO STATUTORY PROHIBITIONS AND DIRECTIONS. SECTION 4 IS AMBIGUOUS AND VAGUE AND SOMETIMES IS A REDUNDANT RE-STATEMENT OF EXISTING NPS RESPONSIBILITIES. IT WOULD REQUIRE MANAGEMENT NOT TO INTERFERE WITH A "TRADITIONAL RESOURCE-BASED ECONOMY." IT WOULD REQUIRE VISITATION TO BE "STRICTLY LIMITED." AND IT WOULD REQUIRE THE SECRETARY TO ESTABLISH CARRYING CAPACITIES AT OR BELOW THE AVERAGE ANNUAL VISITATION DURING 1979-81. WE SUGGEST THAT THESE PROVISIONS ARE MORE APPROPRIATELY ADDRESSED IN THE GENERAL MANAGEMENT PLAN.

YET WE UNDERSTAND THE GENERAL CONCERN OF THE CITIZENS OF THE TOWN OF ISLE AU HAUT AS EXPRESSED IN SECTION 4. WE WOULD NOT OBJECT TO A REQUIREMENT THAT THE SERVICE AND THE TOWN SEEK AGREEMENT ON APPROACHES TO VISITOR USE OF THE PARK AND REPORT THE RESULTS OF THESE DISCUSSIONS TO THE APPROPRIATE COMMITTEES OF THE CONGRESS WITHIN ONE YEAR AFTER ENACTMENT.

MR. CHAIRMAN, THIS CONCLUDES MY PREPARED TESTIMONY.

Senator WALLOP. The first witness is Jack MacDonald, the First Selectman of the Town of Isle au Haut. He is accompanied by Frederic Eustis, Secretary of the Town Planning Board, and Mr. Robert Saner, II, counsel for the town.

Good morning, gentlemen.

Mr. MACDONALD. Mr. Chairman, my name is Jack MacDonald.

Senator WALLOP. I wonder if you could move that microphone a little closer to you? They don't pick up very well. Some day we may get more technologically current equipment in the Senate, but it is going to take awhile.

STATEMENT OF JACK MacDONALD, FIRST SELECTMAN, TOWN OF ISLE AU HAUT, MAINE; ACCOMPANIED BY FREDERIC EUSTIS, SECRETARY, TOWN PLANNING BOARD, TOWN OF ISLE AU HAUT, MAINE, AND ROBERT J. SANER II, COUNSEL FOR THE TOWN OF ISLE AU HAUT, MAINE

Mr. MACDONALD. I am first selectman of the town of Isle au Haut, Maine, and I am pleased to be here today to testify in strong support of S. 1777. With me are Frederic Eustis, secretary of our town planning board, and Bob Saner, our Washington legal counsel.

My statement is brief. A longer statement setting forth our views in more detail has been given to the committee, and I would appreciate it if that statement could also be part of the record.

Senator WALLOP. It will be.

Mr. MACDONALD. Mr. Chairman, compared to all the important problems you face in the Senate, S. 1777 is a pretty small matter. However, to our town this bill represents a long-awaited solution to problems which for us are very significant. It represents 10 years of

hard work by many concerned citizens. We started working toward this bill in 1972 when the Park Service first proposed a new master plan for all of Acadia National Park. Since that time, there have been countless hours of discussion and negotiation involving town and park officials, interested environmental organizations, concerned landowners, and Maine's congressional delegation.

Public hearings were held in 1977 followed by dozens of meetings between the various interests in the last 5 years. S. 1777 is the outcome of all those talks. It may not be a perfect bill. It certainly does not accomplish everything some of the voters in our town might want, but it is a good bill. Important compromises by all involved have made it possible.

It is also the only bill we have. If this bill is not enacted, and soon, I see little chance of building support for some other approach. Interested citizens have worked almost 10 years to get this far. Private landowners have made commitments to donate valuable property to the park if this bill is enacted. Those commitments do not necessarily extend to other approaches, nor is it fair to ask these landowners to maintain these commitments into the indefinite future. Thus time is important, and I am hopeful that Congress can enact this bill during the current session.

Mr. Chairman, I would like to speak on three key points. First, the establishment of a permanent boundary for the park on Isle au Haut; second, conservation easements; and third, the commitment to conservation, not increased recreation.

Section 2 of the bill would establish for the first time a permanent boundary for park holdings. I cannot emphasize strongly enough the importance of this provision. Unlike other parks where Congress drew detailed boundaries, Acadia was authorized in 1929 to accept donations of land throughout the Penobscot Bay area of Maine, including all of the town of Isle au Haut. Under this open-ended agreement, the town has not known from one year to the next what part of its resource and tax base might be given to the park as a result of decisions between the park and individual landowners over which the Congress at one end nor the municipal government at the other exercised any control. Obviously this makes planning for the future difficult.

Even worse is the fear that at some future time so much land could end up in the park that the community would no longer be viable. Thus this bill establishes a permanent boundary as shown on the Park Service maps available to you. The new boundary retains the park's current holdings on the southwestern end of the island and adds valuable new properties to those holdings.

Several private landowners have generously agreed, as has the town, to donate parcels to the park at no cost if the bill is passed. In return, three less significant lots on the northern end now in the park but outside the new boundary, would be transferred to town ownership. These lots would remain protected by deed restrictions detailed in section 3(a) of the bill. Two of these lots have been accessible to visitors only via trespass on both private and municipal property. Their removal from the park will remove a source of continuing aggravation for park rangers, town officials, and private property owners.

A third parcel is largely noncontiguous and has tended to draw visitors away from the main body of the park toward the permanent resident community.

A fourth detached holding, the eastern head, would remain in park ownership, but for conservation purposes only since it, too, can be reached only by trespass.

The additions to the park made possible by this bill should not be understated. The great meadow on the northern edge of the boundary and Merchants Cove in the south are two of the island's most significant natural areas, both worthy of permanent protection. The addition of Jerusalem Mountain and a strip of land west of Long Pond serve to straighten the boundaries and make them more manageable.

In respect to conservation easements, consistent with a real and permanent boundary, this bill will also end the park's currently open-ended authority to acquire conservation easements anywhere within the town. Pursuant to sections 2 and 3(a), the park would retain the conservation easements it already holds. It would be authorized to accept a new conservation easement on the eastern ear if the owner of that outer island should wish to donate one.

In addition, as I mentioned before, the northern lots being transferred from the park to the town would remain subject to forever wild deed restrictions above the 300-foot contour level. Taken together, the park will own in fee or protect through easements and restrictions almost 50 percent of the land within the township. We think this is more than ample to protect legitimate park interests now and in the future.

Private landowners outside the boundary will remain free to conserve their land as they see fit, including the use of conservation easements running to the town or private organizations. In fact, the town already holds easements on several properties along the high ground on the northern end of the island.

In addition, as an outgrowth of the discussions which led to this bill, a new entity has been created to assist in the long-term preservation of lands outside the new boundary. This new entity, the Isle au Haut Land Conservation Trust, is available to work with private landowners interested in protecting their property. To give the park a voice in the trust's activities, and to make the park's experience on conservation matters available to the trust, the bill authorizes the Superintendent of Acadia to serve as a trustee of the trust.

Finally, as provided in section 3(b), the park could play an enforcement role with respect to easements donated to the trust if both the landowner donating the easement and the park consent.

This issue of conservation easements has been complicated and controversial. There are those who wanted the park to have wider authority to continue accepting conservation easements, and others who objected to any park role outside the new boundary. We think the new land conservation trust and the provisions of the bill authorizing the park to participate in it provide a unique partnership of private and public interests designed to help conserve the island while at the same time retaining the essential accomplishment of this bill; namely, a boundary with a park on one side and a town on the other.

The final provision of the bill, section 4, establishes the importance of managing these parklands so as to preserve their current beauty and character. Ours is a very remote, unspoiled island. As such, it can provide limited numbers of visitors an exceptional experience, but only if it remains a remote and quiet place. In all of the discussions leading up to this legislation, there was unanimous opinion that this portion of Acadia was best suited for conservation with very low intensity hiking and camping.

There were, of course, differing views on how this could be best provided for in the bill. Mr. Chairman, we are convinced that it can only be accomplished in one way—by having a strict limit on carrying capacity as section 4 now provides.

Current use of the park is undoubtedly considered low when compared to the throngs of tourists in other portions of Acadia and other parks elsewhere in the country. However, by historical standards, it is very high. Since the park first began keeping accurate records in the mid-1970's, the number of visitors to Isle au Haut has doubled. While meaningful earlier records are not available, those who know the island believe visitation in the mid-1970's was probably double that of the late 1960's. The current numbers are probably 10 times those experienced when lands were first donated to the park only 40 years ago. Without some limit, the numbers will presumably double again in the next 5 years, and double again in the 5 years after that.

We are convinced that the current level represents the proper carrying capacity for three major reasons. First, there is already noticeable damage to trails and vegetation in the park. Problems of erosion will get much worse with more people. While some would argue that better management, trail maintenance, and so-called trail hardening actions can prevent trail damage, it is just plain unrealistic to believe the park will have people or money to do much more than they have done in recent years, nor do we think that extensive trail construction to accommodate ever-increasing numbers of people is consistent with preserving this unit in its natural condition.

Second, further increases will diminish the quality of the experience enjoyed by those who come. Much of the increase has been in day hikers. On some days they already arrive in groups of 40 or 50 people, offering something less than the peace and quiet the park would have provided them 5 years ago. Similarly, large groups of day hikers can only detract from the experience of campers who come in small numbers to enjoy the island's privacy and isolation for several days at a time.

Finally, perhaps most importantly, I am talking about preserving a way of life which is rapidly disappearing from the Maine coast under ever-increasing recreational pressures. Mr. Chairman, I am a lobster fisherman. I suspect I am better at lobstering than at testifying before congressional committees. My friends and neighbors on Isle au Haut are mostly lobstermen and commercial fishermen. Residents of the town have depended on the waters around it for their livelihood for over 200 years. Conservation remains absolutely vital to those of us who depend on this resource today.

My son wants to be a lobsterman. He works with me now, and I hope some day he'll have his own boat. I want him and other

young people on the island to have that chance, and I know they can only have it if Isle au Haut remains remote, undeveloped and a little bit left alone. As far as I know, there is not a resident in the town who wants to earn a living from serving park tourists, but if the numbers of people coming to the park double again in 5 years and again 5 years after that, eventually we'll pass a point of no return where there's great pressure to sell hotdogs, build campgrounds and run pleasure boats for tourists rather than go lobstering.

If that is allowed to happen, Isle au Haut will be a different place. It will have lost what makes it so unique—its character as a working fishing village. The natural beauty of the park won't be unimpaired for future generations of visitors, and our way of life won't be unimpaired for our future generations.

Mr. Chairman, in closing I would like to express my appreciation to the Maine delegation and their staffs and to the Maine environmental organizations, particularly the natural resources council and the Maine Coast Heritage Trust, who assisted us in shaping this bill. I hope you and your committee will see fit to move the bill.

If you or your staff have any questions, my friends and I will do our best to answer them. Thank you.

[The prepared statement of Mr. MacDonald follows:]

BEFORE THE UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATERS

STATEMENT

OF

JACK MACDONALD
FIRST SELECTMAN
TOWN OF ISLE AU HAUT, MAINE

IN SUPPORT OF

S. 1777, a Bill to Establish a Permanent Boundary For that Portion of Acadia National Park as Lies Within the Town of Isle au Haut, Maine

April 14, 1982

This statement ir support of S. 1777 is submitted on behalf of the Board of Selectmen and the Planning Board of the Town of Isle au Haut, Maine ("the Town"). The Town has worked with officials of the National Park Service and other interested individuals for almost ten years in an effort to establish a rational permanent boundary for that portion of Acadia National Park as lies within the Town and to plan for its proper long term conservation in a way that will protect its natural beauty and at the same time respect the interests of the Island community outside the Park.

S. 1777 is the result of that effort. The bill strikes a careful balance between and among diverse interests of the Park Service, the municipal government, resident and non-resident landowners and other concerned citizens. The bill enjoys bi-partisan support, having been co-sponsored in the Senate by both Senators

Mitchell and Cohen. Companion legislation, H.R. 4855 is sponsored in the House by both members of Maine's House delegation. The Town is particularly appreciative of the efforts of the entire Maine delegation and their able staffs in bringing this important bill to the attention of the Congress. The Town commends S. 1777 to the Committee on Energy and Natural Resources for careful consideration and urges its prompt enactment in the current Session of Congress.

BACKGROUND

The Town of Isle au Haut consists of one main island and a number of smaller surrounding islands and ledges. It is located at the southeasterly tip of Penobscot Bay in Knox County, Maine. The permanent resident population of the Island numbers approximately 80. This number is increased in the summer months by seasonal residents who come to enjoy the beauty and solitude of the Island.

Isle au Haut is a place of great natural beauty, heavily forested, bounded by rocky shores with numerous protected coves and inlets and surrounded by the waters of Penobscot Bay and the Atlantic Ocean. At the same time, it is a working fishing village, similar to many that once dotted but have since largely disappeared from the Maine coast under increasing recreational and development pressures. The principal occupations of residents are lobstering, clamming, and fishing, primarily for herring and scallops. Sheep herding, once quite important to the Island economies of Penobscot

Bay, has dwindled but is again being attempted on some out islands on a limited scale.

Survival of this traditional resource based economy depends on the Town's ability to remain remote and largely undeveloped. There are currently no hotels, motels, commercial campgrounds, restaurants, or other establishments seeking to develop a "tourist economy." While perhaps as many as five new seasonal residences have been constructed in the last ten years, and there is demand for increased permanent resident housing (two new ones in recent years) there has been none of the large scale multi-unit construction which has done so much to change the character of other towns in coastal Maine.

Public facilities on the Island consist of a Town hall and library, church, elementary school, post office and general store. There is a rudimentary road system around the Island, but cars are few in number. Trails and footpaths, both within and outside the Park, connect the community, and water transportation remains all important. Access to the Island is by a privately-run mail boat from Stonington. The boat company maintains regularly scheduled service six days a week, weather permitting.

In considering the interrelationships of the Park and the community, it is important to understand both the very small scale of Isle au Haut and its natural remoteness. The entire Township consists of less than 8,000 acres of land; the main island only 6,750. The Park Service currently owns over 40% of this in fee (almost 50% of the main island) and holds conservation easements on another 3% (all on out islands). The Town lies approximately six miles by water from Stonington, Maine, which itself is relatively isolated from Maine's population centers by the surrounding waters of Penobscot Bay.

The trip from Stonington to Isle au Haut takes approximately 40 minutes, often more in bad weather. This physical isolation is reinforced in other ways. Other than a radio phone for emergency use, there is no telephone service on the Island. Electrification is a fairly recent development and even now covers only a portion of the Island.

HISTORY OF ACADIA NATIONAL PARK
ON ISLE AU HAUT

Acadia National Park is something of an anomaly within the National Park System in not having firmly established boundaries. Acadia (originally known as Lafayette National Park), was created by Act of Congress in 1919 when properties on Mount Desert Island, Maine then known as Sieur de Monts National Monument, were declared to be a national park. 16 U.S.C. 341. This same Act authorized the Secretary of the Interior to accept donations of additional properties on Mount Desert Island for the extension of the Park.

In 1929, apparently at the urging of a few large landowners (not on Isle au Haut) desirous of making further donations to the Park, the Secretary of the Interior was authorized to accept donations of "lands, easements, and buildings" within a wide area of Maine, encompassing all of Hancock County and the islands of Knox County east and south of the main Penobscot Bay Ship Channel. 16 U.S.C. §342a. Isle au Haut was not specifically designated in the 1929 Act, nor is there any indication that Congress had Isle au Haut specifically in mind when it expanded the areas in which the Park could accept donations.

Over the years, generous gifts by private landowners gradually expanded Acadia's holdings on Mount Desert Island. Not until 1942 was any donation offered with respect to any lands on Isle au Haut.

At that time, one landowner offered one large and four smaller parcels on the main Island. These gifts were accepted between 1943 and 1947 and currently constitute Acadia's entire fee holdings in the Town, no further gifts in fee having been made. In the intervening years, four conservation easements have been offered to and accepted by the Park within the Town, all of them on outer islands.

Due to the peculiar method of land acquisition, the present holdings of Acadia in the Town (and elsewhere) do not reflect the same rational planning and Congressional review which both the Congress and the Park Service now demand in other Parks. Were this a new area, one would certainly not select the irregular patchwork of contiguous and non-contiguous fee and easement holdings which have come into the Park under the 1929 Act.

Nor did either the 1919 or 1929 Acts specify any particular management objectives for all or any part of Acadia as is common in Park enabling legislation of more recent vintage. When lands were donated to the Park on Isle au Haut in the 1940's a developed trail system involving these and other (private) lands was in existence. Use of that system was limited, however, to local and seasonal residents, who made no perceptible impact on the natural resource.

In the intervening years, this unit of Acadia has experienced first a gradual, and later more rapid increase in use by day hikers. While the Park has refrained from major developments, it has added several shelters to accommodate campers, and trailers have been brought onto the Island for the first time to provide offices and housing for seasonal Park personnel. The Park "presence" on the Island has had several measurable impacts:

(1) visitors unfamiliar with the Town tended to confuse Park lands

with the community outside the Park, leading to frequent trespass on private lands and interference with the privacy valued so highly by Island people. This trespass problem was aggravated by the Park's irregular boundary and the presence of private and municipal property in between non-contiguous parcels of Park property;

(2) ever increasing numbers of visitors began to harm trailside vegetation and cause trail erosion in the Park;

(3) Park planners talked of possible eminent domain authority, leaving Town residents increasingly suspicious of possible Park expansion that might threaten the very viability of the permanent community; and

(4) The town of Stonington, from which visitors take the mail boat to Isle au Haut, suffered considerable traffic congestion and now has a severe parking problem during most of July and August.

PARK AND TOWN PLANNING EFFORTS

To remedy some of the above described deficiencies in the 1929 Act, the Park Service began development of a new "Master Plan" for all of Acadia in the early 1970's. While the draft plan issued in 1972 proved unacceptable to all concerned, it set in motion a dialogue between Town officials, Park representatives and interested citizens that -- after almost ten years of negotiation -- produced the bill now before the Committee, S. 1777.

In 1976, Park officials agreed to plan separately for Isle au Haut, recognizing that its small scale, traditional resource based economy, and relative isolation presented issues different from those in the much more developed and heavily utilized areas of Acadia on Mt. Desert Island. A joint Park/Town planning effort ensued.

In mid-1977, the Park issued its "Assessment of Management Alternatives" for Isle au Haut which set forth a series of future management options, including various boundary revisions. The Town developed and offered its own preferred alternative. Public hearings on the various options were held in August of 1977 at three different locations: Isle au Haut, Stonington, and Ellsworth. Many interested individuals and organizations participated personally in those hearings while others submitted written comments.

Following these hearings additional meetings were held between Town and Park officials and with various Maine and national environmental organizations. These discussions culminated in the introduction by Congressman David Emery of H.R. 7669 in the 96th Congress. While no action was taken on that bill, it proved a focal point for further discussions and suggested revisions. In February of 1981, the Park Service issued its "Record of Decision" for the management of Isle au Haut, which contained its formal endorsement of certain boundary changes and its commitment to continue managing this unit with a primary focus on conservation. By this time, three different Superintendents of Acadia (and one acting Superintendent) and four Park Service Regional Directors (plus two acting) had been involved over a ten year period.

The most recent negotiations led to the introduction of S. 1777 and H.R. 4855, sponsored by all members of the Maine Congressional delegation, in the First Session of the 97th Congress. While these companion bills follow closely the original outline of H.R. 7669, particularly in regard to boundaries, certain revisions were made to satisfy various concerns expressed in the interim.

THE LEGISLATION

S. 1777 has three key elements -- the establishment of a rational and manageable boundary, a resolution to the controversy surrounding conservation easements, and a commitment to emphasize conservation in this unit of Acadia, not increased recreation. Taken together, these provisions will establish a permanent framework within which the Park and the Town can co-exist as good neighbors.

Park Boundary

Section 2 of S. 1777 would establish for the first time a permanent boundary for Park holdings. Section 3(a) authorizes certain land transactions necessary to conform Park holdings with the new boundary. The effect of the boundary is to concentrate Park jurisdiction and visitor activity on the southwestern portion of the Island. The Park would retain the bulk of its current holdings, including those most significant to the visitor experience. In addition, the Park would acquire several important new parcels which have heretofore been in either private or municipal ownership. The current owners have generously agreed to make these parcels available by donation, or, in one case, exchange, as part of a legislative solution so as to avoid both the need for Federal appropriations and the threat of condemnation authority which is so anathema to landowners in the Town.

The value of these additions should not be underemphasized. The Jerusalem Mountain and Great Meadow parcels in the north bring significant natural areas into the Park while evening out the northern

boundary. The Great Meadow is the only known location in Maine of the GRAY INKBERRY (Ilex Glabra), and the new boundary will place all of the Great Meadow in the Park. The addition of a strip of property west of Long Pond helps create an internalized trail system and will make for a straighter and more manageable eastern boundary, while inclusion of the Western Ear completes the Park domain on the southwestern tip. Finally, the Merchants Cove lot adds a beautiful horseshoe cove and rock beach, important wetlands behind the beach, and Merchants Point with dramatic vistas to both the Eastern and Western Heads. Unspoiled properties comparable to Merchants Cove are rarely available for sale, much less by donation, anywhere on the Maine Coast. It is worthy of note, and indicative of the conservation record of both the Town and its landowners, that these additions to the Park remain undeveloped and of "Park quality." If a legislative resolution of the boundary and other controversies acceptable to the community is not enacted, these properties will not be available to the Park.

For its part, the Park would transfer to municipal ownership, several properties outside the new boundary. Two parcels on the north end of the Island which are not contiguous with other portions of the Park have, by inviting trespass on both private and municipal property, been a particular source of friction between Park users and Town residents. Most of a third parcel, connected to but largely not contiguous with other Park lands, would also be transferred to municipal ownership. These transfers are consistent with the relocation of the Park entrance away from the village community to Duck Harbor in the center of Park holdings and near existing campsites. A fourth and minor revision would move the Park boundary from one side of a private driveway to another with no significant loss to the Park.

As an incident to the transfer of the three parcels to municipal ownership, the Park would impose permanent deed restrictions to protect the scenic integrity and general character of these parcels. As provided in Section 3(a) of the bill, lands above the 300 foot contour level shall remain forever wild. Park and Town officials have already agreed to the substance of these protections which shall conform to the provisions of conservation easements already imposed on adjacent private lands. (The details of those restrictions are set forth in the Appendix to the Service's Record of Decision released February, 1981.) Lands transferred from Park to municipal ownership below the 300 foot contour level will be restricted on the basis of the current Town zoning ordinance, thus protecting these lands from future zoning changes without Park Service consent.

The net effect of these boundary revisions will be a slight decrease in Park fee ownership (approximately 80 acres) to be more than compensated by a substantial increase in lands subject to either conservation easements or deed restrictions providing permanent protection (over 400 acres). On an assessed valuation basis, Park fee ownership will actually increase despite the slight decline in acreage. These seemingly modest revisions have substantial benefits to all concerned: (1) the Town will be able to plan its future knowing that a real Park boundary exists; (2) the Park ends up with a more manageable and self-contained unit that still contains the Park's most significant natural features; (3) lands transferred from the Park to the municipality remain protected; and (4) perhaps most importantly, the Park obtains by donation valuable new natural features which, realistically, would be unobtainable by any other means.

Conservation Easements

When Congress authorized the Park in 1929 to accept "easements" in addition to land holdings throughout the Acadia region, the conservation easement was virtually unknown. There is no indication that Congress even contemplated the conservation easement when it authorized the more conventional easements of access and use. In recent decades, the conservation easement has come into widespread use in Coastal Maine as a means of preserving property while maintaining the other attributes of private ownership. It has proven relatively popular with seasonal residents, a number of whom are able to utilize the federal tax incentives involved. Easements are differently understood and are in general disliked by permanent residents who see possible land uses foreclosed not just for the lifetime of current landowners, but for all time, and the tax base of their Town potentially eroded.

The Park has accepted several easement donations within the Town during the 1970's. Most or all were offered after the State of Maine enacted legislation on conservation easements. All are on outer islands, and thus none are adjacent to Park fee holdings on the main Island.

Consistent with the establishment of a permanent boundary, S. 1777 would repeal the Park's currently open-ended authority to acquire easements anywhere within the Town. Pursuant to Sections 2 and 3(a), the Park would retain those easements it already holds.

It would be authorized to accept a new conservation easement on the Eastern Ear if the owner of that outer island would wish to donate one. In addition, as mentioned previously, those lands being transferred from the Park to the Town on the northern end of the Island would be protected with deed restrictions. Taken together, the Park will own in fee or protect through easements and restrictions about 50% of the land within the Township. This is more than ample to protect legitimate Park interests now and in the future.

Private landowners outside the Park boundary will, of course, remain free to conserve their own land as they see fit, including the use of conservation easements running to other entities. In fact, the Town itself already holds easements on several properties along the high ground on the northern end of the Island.

In addition, as an outgrowth of the discussions which led to this bill, a new entity has been created to assist in the long-term preservation of lands outside the new boundary. This new entity, the Isle au Haut Land Conservation Trust, will be available to work with private landowners interested in protecting their property. In order to assure that the Park has a voice in the Trust's activities, and to make the Park's experience on conservation matters available to the Trust, S. 1777 would authorize the Superintendent of Acadia to serve as a trustee of the Trust. Finally, as provided in Section 3(b), the Park could play an enforcement role with respect to easements donated to the Trust, if both the landowner donating the easement and the Park consented.

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This issue of conservation easements has been complicated and controversial. There are those who felt the Park should have wider authority to continue accepting conservation easements, and others who objected to any Park role outside the new boundary. The Town believes the new Land Conservation Trust, and the provisions in the bill authorizing the Park to participate in it, provide a unique partnership of private and public interests designed to help conserve the Island's natural beauty while at the same time retaining the essential accomplishment of the bill, namely a boundary with a Park on one side and a Town on the other.

Management of the Park for Conservation Purposes

The final provision of S. 1777, Section 4, recognizes the importance of managing these Parklands so as to preserve their current beauty and character. Isle au Haut is a very remote, "unspoiled" island. As such, it can provide limited numbers of visitors an exceptional experience -- one not available in the other more crowded areas of Acadia -- but only it if remains a remote and secluded place. In all of the discussions leading up to this legislation, there was unanimous opinion that this portion of Acadia was best suited for conservation with very low intensity hiking and camping. There were, of course, differing views on how this could be best provided for in the bill. The Town is convinced that it can only be accomplished in one way -- by having a strict limit on carrying capacity as Section 4 now provides.

Current visitation to the Park is low when compared to the throngs of tourists in other portions of Acadia and other Parks elsewhere in the country. However, in the context of the Island's small scale and by historical standards, it is very high. Since

the Park first began keeping accurate records in the mid-1970's, the number of visitors to Isle au Haut has doubled. While records are not available, those who know the Island believe visitation in the mid-1970's was probably double that of the late 1960's. The current numbers are approximately ten times those experienced when lands were first donated to the Park only 40 years ago. Without some limit, the pressure of visitors will double again in the next five years, again the five years after that, and so on indefinitely.

These projections are probably conservative, since other factors are combining with the Park's influence to attract ever increasing numbers. The State of Maine has just unveiled a major new promotional program to bring more tourist business to the State. A recently published Michelin "Green Guide" to New England gives Acadia generally and Isle au Haut specifically prominent mention.

Both the Congress and the Park Service have long recognized that management objectives must be tailored to the particular characteristics of different Park units. More recently, confronted with growing people pressures in the Parks, Congress has required Park managers to establish and implement visitor carrying capacities for each discrete area of each Park. §604 Pub. L. 95-625; 16 U.S.C. 1a-7(b)(3). The legislative history of that provision instructs Park managers to address both physical and social (or biological and psychological) limits in devising overall carrying capacities. H. Rept. 95-1165, p. 82.

Three principal factors underlie the Town's conviction that current levels of visitation represent the proper carrying capacity for this unit of Acadia. First, there is already noticeable damage to trails and vegetation in the Park. Problems of erosion, already serious near trail heads, would be compounded by more people. While

some would argue that better management, trail maintenance, and so-called "trail hardening" actions can prevent or mitigate trail damage, it is simply not realistic to believe the Park will have people or money to do much more than they have done in recent years. Nor would extensive trail construction to accommodate ever increasing numbers of people be consistent with preserving this unit in its "natural" condition.

Second, further increases would detract significantly from the quality of the experience enjoyed by those who come. Most of the increase in recent years has been in day hikers. On some days, they already arrive in groups of forty or fifty people, leaving something less than the peace and quiet the Park would have provided them five years ago. Similarly, increasing numbers of day hikers can only detract from the experience of campers who come in small numbers to enjoy the Island's relative isolation for several days at a time. This is a small area, and large numbers of hikers can simply not be dispersed to preserve the privacy campers enjoy.

Finally, perhaps most importantly, there is the question of respect for the Island community, of preserving a way of life which is rapidly disappearing from the Maine coast under ever increasing recreational pressures. Permanent residents of Isle au Haut are mostly lobstermen and commercial fishermen. The Town has depended on the waters around it for its livelihood for over two hundred years. Conservation remains absolutely vital to the economic interests of lobstermen and fishermen who depend on this resource today. In large measure, it it this "environment," "ambiance" or "character" of a

remote fishing village that also makes Isle au Haut such a special experience for Park visitors. To retain that special character, Isle au Haut must remain remote and uncrowded. It simply cannot absorb ever increasing recreational pressure without eventually losing what now makes it so unique.

The Congress, as well as the public, has become increasingly distressed with the deteriorating conditions in many of the country's great national Parks. The Park Service has extensively catalogued various threats to the Parks, including encroaching real estate development, energy projects, destruction of wildlife habitat, air pollution, water pollution and many more. The threat to Isle au Haut is simple: too many people.

Some of the impacts of increased numbers of visitors would be immediate: further erosion and loss of vegetation in the Park and disastrous parking problems in Stonington, for example. Others, however, would be cumulative and might not manifest themselves until irreversible. There are currently no commercial concessions in this Park. Nor are there any permanent residents of the community (other than an assistant ranger) who make a living from serving Park visitors. But if visitation continues to increase, doubling in the next five years and quadrupling in ten, it will be only a matter of time before it becomes more attractive to sell hot dogs, build campgrounds and run pleasure boats than to go lobstering.

If that is allowed to happen, Isle au Haut will be a different place. The natural beauty of the Island won't be "unimpaired for the enjoyment of future generations" of Park visitors as required by 16 U.S.C. 1; the way of life of the permanent community won't be

"unimpaired" for its future generations; there may not even be a working lobsterman to come to Washington and ask future generations of this Committee to do something about it.

The time to prevent the degradation of this unit of Acadia is now, not after it happens. And the only sure way to do it is with a statutory limit on visitor carrying capacity pegged to current levels. Even strong hortatory language urging management for conservation purposes leaves too much to administrative discretion. For example, legislation authorizing the Cape Code National Seashore has strong language evidencing Congress' desire that it "be permanently preserved in its present state." 16 U.S.C. 459b-6(b)(1). And yet, even with this strong statement in the statute, the Conservation Law Foundation of New England is in Federal Court today trying to prevent the damage done there by jeeps and dune buggies permitted by Park Service regulation. It is not difficult to imagine how much easier it would be for future stewards of Acadia to turn their backs on gradual increases in recreactional use that, over time, would undeniably alter the character of Isle au Haut to the detriment of visitors and residents alike.

CONCLUSION

For all of the reasons set forth above, the Town urges this Committee to favorably report S. 1777 to the Senate for action during this Session of Congress. The Town of Isle au Haut appreciates this opportunity to make its views on S. 1777 known to the Committee and offers its assistance to work with Committee members and staff during their consideration of this important legislation. The Town would also like to express its particular thanks to the Maine Congressional delegation and their able staffs, and to the Natural Resources Council of Maine and the Maine Coast Heritage Trust, all of whom contributed importantly to the development of this bill.

Senator WALLOP. Thank you very much, Mr. MacDonald. As Mike Harvey of the minority staff said, a statement which I think all of us agree with, that you are a damn sight better at testifying in front of Senate committees than we would, any of us, be at lobstering.

I appreciate what is a very eloquent statement, and I understand what it is that you are trying to preserve and trying to accommodate at the same time.

One of the unfortunate things that sometimes happens in this country is that when we seek protection and so clearly identify something of value, that it serves as a candlelight to moths—it attracts and it pulls people in, and I'm sorry we didn't have the administration's testimony on this bill for this morning so that you could hear it, but we will make certain that a copy of that is forwarded to you.

Mr. MACDONALD. Thank you.

Senator WALLOP. I am sentimentally inclined very much to accommodate your carrying capacity if I might be permitted to slip in under it some time and come up and visit.

Mr. MACDONALD. You would be welcome at any time.

Senator WALLOP. Is it your feeling that this compromise that has been worked out is agreeable to the citizens you represent generally?

Mr. MACDONALD. I think it is, definitely.

Senator WALLOP. They feel that if we could get an enforceable carrying capacity and these easements enforced, that pretty much what they value and see as valuable would be reasonably protected?

Mr. MACDONALD. I feel that is the case. I bow to my colleagues if they would like to make a statement on that.

Senator WALLOP. You all are comfortable with it?

Mr. EUSTIS. Mr. MacDonald speaks for all of us.

Mr. SANER. As an aside, I think it is important to point out, too, Mr. Chairman, that this bill has been worked on for so long. It is a relatively small island. You couldn't find anybody on the island who doesn't know about this. There have been public hearings. Virtually everybody in the town participated in the public hearings.

It has been the subject of discussion at town meetings which you know to New Englanders are still a pretty vital activity. To our knowledge, this is something that the permanent community wants, and wants very badly.

Senator WALLOP. What is the population of the town?

Mr. MACDONALD. Roughly about 80 year round.

Senator WALLOP. About 80? Gee, I come from a big one. My town is a hundred.

Well, I very much appreciate your coming down here this morning to testify and give us the benefit of your statement. I find it an eloquent statement. I understand what it is that you are seeking to accomplish, and if I can help, I would be happy to try.

Mr. MACDONALD. Thank you very much.

Senator WALLOP. Thank you all very much. On this matter we have Destry Jarvis, director of Federal activities, National Parks and Conservation Association.

STATEMENT OF T. DESTRY JARVIS, DIRECTOR, FEDERAL ACTIVITIES, NATIONAL PARKS AND CONSERVATION ASSOCIATION

Mr. JARVIS. Thank you, Mr. Chairman. It is with a great deal of pleasure that I welcome these hearings and come before you today, having personally been involved for the last 5 years in working on this particular issue, and this particular area, and having already had the distinct pleasure of visiting the area a number of times and working closely with the selectmen and the planning board and other residents of the area.

We do support S. 1777 and believe that the proper compromise has been struck for both protection of the park resources and the lifestyle and livelihood of the residents of the area.

Isle au Haut is unique in two major ways. From our point of view, it is uncomparable in its magnificence to any other site or resource in the national park system. I am somewhat hesitant to say that before you, Mr. Chairman, because I know of your regard for the Tetons, but if you would have the opportunity to sit on top of Duck Mountain and to hike along the Goat Trail in the southern end of the island or to sit on the rounded boulders of the beach which is town owned property, I think you would agree with me, it is truly magnificent.

The other unique quality of the island is the devotion of the residents, particularly the year-round residents, to both maintaining their lifestyle and the environment in which their lifestyle is set, and on which their livelihood is based, and fortunately, that benefits the park as well as their lives.

I have a couple of specific comments about the bill. As you can see from the two maps that I have attached to my testimony from the Park Service's planning document, the first of which discusses the significant or shows the significant natural areas that the Park Service identified, all but a small portion of one of the 12 significant natural areas will be protected by the new boundaries either by the Park Service in fee ownership or by the town in fee ownership, and I would add that the town has done itself and the resource and the country a great service in protecting Boom Beach in particular, and in their accommodation of the protection for the Median Ridge area of the park.

The Park Service as has been stated has a unique limitation on its authority in Acadia National Park generally, and that is that it may now only accept land by donation—no exchanges, no fee purchase of either easement or fee. It is essential that legislation give the Park Service the authority to exchange lands which this bill would accomplish.

It also is important in my judgment that the Park Service within this new boundary have the authority to purchase for money if necessary. We prefer the use of exchange. We think that in all but perhaps one case exchange will be the preferrable solution and the solution that is used. There is one typical inholding, only one really, in the park called the Hamilton Lot on the edge of Duck Harbor which is the major entry point for visitors to the park. It is our understanding that the owner of that lot is unwilling to sell. It should be acquired and added to the park, and that authority will have to be granted in this legislation.

We would add, however, that we are perfectly agreeable to limiting the fee acquisition authority to this lot only because the landowners of the area are perfectly willing to exchange and donate the tracts that this boundary would incorporate.

One other point, technical point, about the bill—the section 3 now specifies a 90 day period from the date of enactment, by which time these exchanges have to occur. I am not certain that it is physically possible for the department with its massive bureaucracy to process and transfer title to these lots within 90 days. I am not trying to throw up an obstacle to the completion of these exchanges, but I just don't think 90 days is physically possible. Perhaps 180 days or perhaps some other, and I have no particular knowledge of what might be the best solution, but I just don't think 90 days would do it.

It is also unclear as to whether the 90 day limitation as specified in section 3 or the indication that the town and the Park Service are to agree on the nature of the covenants, which of those two is the controlling factor. If there was no agreement within 90 days, would they transfer anyway or would the potential for transfer be null and void until such time as they agree? It is just not clear which is preferable.

One of the other unique features of this legislative proposal that has come about as a result of the need for a legislative proposal is the establishment of the Isle au Haut Land Conservation Trust. We think this concept has great merit. It is perfectly applicable, and we think will be very workable on Isle Au Haut and has application potential elsewhere in the system, and we are looking forward to seeing its effective utilization here in hopes that such a land trust will work in other places where the land ownership patterns are of such complexity that simple purchase by the Park Service is not the most desirable solution.

We do think that it is important that the Superintendent of Acadia National Park sit as trustee which is provided in the trust instrument as it was or as it is planned, once this legislation is enacted, and we also think that it is vital that the Park Service as the bill provides serve as a coholder of easements donated to the trust for enforcement purposes. We understand that there is some problem within the administration of supporting, and within the Park Service of supporting this provision, and I just want to place particular emphasis on the importance of it.

The Park Service needs to maintain a role, albeit a relatively minor one, and not the controlling one, in the function of this trust, and we think the function of serving as the enforcing agent for the trust is a good one.

On the point of the section 4 of the bill relating to carrying capacity, here again, Mr. Chairman, we think this is a very important provision. The bulk of the visitation to Acadia National Park is at Mount Desert Island, the major visitor center of that park. It is very accessible by road. There is a park scenic highway that circumvents or circumnavigates the island, and there are no significant limitations to visitation there.

The kind of experience that is obtained by visitors on Isle au Haut is only possible while its unique remoteness is maintained, and it has the potential to be overrun. Already the Duck Mountain

trail suffers significantly from overuse. The signs of that wear and tear are very evident. We think this is a good provision.

The Park Service has, as you know, Mr. Chairman, a requirement of law already to determine and implement carrying capacity for each unit of the National Park Service. They have thus far chosen to ignore that provision, and we think where appropriate, where agreed to, and where so obviously needed as in Isle au Haut, that it is entirely within the purview of Congress to designate a carrying capacity for a given unit of the system.

In conclusion, Mr. Chairman, we do support S. 1777, and I appreciate the opportunity to testify, and we will be happy to answer any questions.

[The prepared statement of Mr. Jarvis follows:]

STATEMENT OF T. DESTRY JARVIS
NATIONAL PARKS & CONSERVATION ASSOCIATION
BEFORE THE
SUBCOMMITTEE ON PUBLIC LANDS
AND RESERVED WATER

U.S. SENATE
on
S. 1777

April 13, 1982

Mr. Chairman and other distinguished members of the Subcommittee: I am Destry Jarvis, Director of Federal Activities, for the National Parks and Conservation Association. We appreciate the opportunity to testify before the Subcommittee today on S. 1777, a bill relating to the boundary for the Isle au Haut portion of Acadia National Park.

For more than five years, I have been personally involved in continuing efforts to reach agreement among the National Park Service, the residents of Isle au Haut, and the local and national conservation organizations on a boundary for this beautiful portion of Acadia National Park. It is with a great deal of satisfaction therefore, that I come before the Committee today to offer our support for such a long-sought resolution of a complex problem. With only minor clarification, S. 1777 will achieve the agreement which we have all sought during these past few years. For the most part, these clarifications can occur in the bill itself, or in the Committee report.

Isle au Haut, named in 1604 by Samuel de Champlain for the high "mountains" along the Median Ridge of the island which were visible from his sailing vessel while still some miles from land, is truly a "jewel" even among its distinguished company in the National Park System. In my considered opinion, the visitor experience obtained from a hike up Duck Mountain, and along the Goat Trail around the southern end of the island is not only unique in the National Park System, but compares in its magnificance to <u>anything</u> else in the System.

What is also unique about the Isle au Haut is the devotion of the residents to maintaining both their lifestyle and the environment in which they live, which, fortunately, includes the parklands on the island. The lifestyle of the residents, and their expressed desires to co-exist, and indeed to prosper, alongside the park, can serve as a model for the future encompassing the <u>total</u> community - both human and natural environments. The combination of the resident people in the Town devoted to a lifestyle which is largely based on lobstering and fishing, and the Park Service's effort to maintain the natural conditions contained in the parklands of the island, results in a setting for the park visitor which is indeed exceptional. This is truly a case in which the sum of the two parts is greater than either of its components. The townspeople of Isle au Haut are to be commended for their devotion to living compatibly with the park, and for their willingness to improve the park through this legislation.

From NPCA's point of view, any acceptable solution to the boundary decisions on Isle au Haut will be that which, when analyzed comprehensively, results in a net benefit for the park. That is to say, it is not acceptable to trade-off one point against another, such as deleting the Northern Lot

in order to acquire the Merchant's Cove Lot, and say that a "compromise" has been struck. The comprehensive solution should, and can, benefit the park, the visitors, and the residents, both permanent and seasonal.

In our opinion, S. 1777 achieves the necessary comprehensive solution for Isle au Haut. Upon enactment and implementation of the provisions of S. 1777, all but a portion of one of the 12 significant natural areas on Isle au Haut identified by NPS in its August, 1977 Assessment of Management Alternatives will be protected either by NPS or by the Town. The attached map from the 1977 Assessment identifies these 12 significant natural areas. Comparison with the map of the new authorized boundary of the park indicates that only a portion of Long Pond will remain in private ownership, and the current Town zoning ordinance, though not of a permanent nature, protects the shoreline of the Pond at present. Of the other 11 natural areas, the Town already owns Boom Beach, and will own, with restrictions, the high mountain tops of the Median Ridge. The other 9 are, or will be in the Park.

Currently, by law, NPS only has the authority to accept donations of land in fee or easement in Knox County, which includes all of the Town of Isle au Haut. No lands may now be purchased with donated or appropriated funds, even from willing sellers. Acquisition authority is needed for several key parcels, and legislation to provide this authority is recommended and supported by NPCA. However, a fee purchase authority is needed on only a very limited basis, and this legislation should provide such authority only for such parcels as are specifically designated in the statute or by map reference. In most cases, NPS can, and should use land exchange authority but the legislation must also provide this. Several of the key parcels needed in the park are owned by the Town and would only be added by donation or exchange. Exchange authority should be used to add these parcels. In particular, additions to the park (in fee) should include Merchant's Cove, Western Ear, Eastern Ear, the Hamilton lot (on Duck Harbor), Jerusalem Mountain, and the remaining portion of the Great Meadow which lies outside current park boundaries. With the exception of Eastern Ear, these additions were all proposed in the Record of Decision, Isle au Haut General Management Plan, February, 1981.

Although it appears entirely likely that most of these acquisitions would (and should) be accomplished either on a willing seller basis or by exchange, it is my understanding that eminent domain authority will probably be needed for the Hamilton lot, an "inholding" on Duck Harbor, the principal visitor access point to the island. If so, any legislation should include such authority, but could be limited exclusively to this parcel only.

In return for the statutory grant of the land acquisition authority outlined above, NPS has proposed, and NPCA would agree, that a fixed boundary would be established by Congress, outside of which NPS would lose all authority to acquire land. Our agreement to support elimination of NPS authority to include lands outside what is essentially the present boundary (with the exception of the additions mentioned above) is not a decision which we make lightly, since it does reduce the potential size

of the park significantly, especially among the smaller islands surrounding Isle au Haut and those between Isle au Haut and Mt. Desert Island which are now within the NPS authority to accept donations. However, NPCA can, and does agree to this as a part of a comprehensive solution to the boundary for this park.

An objective of any legislation for Isle au Haut, with which NPCA is already in agreement, is the establishment of a new, well-defined boundary. It is generally agreed that the park will consist of the lands already within the ownership of NPS, and those additions noted above in the southern half of the island. What has been in question has been the proposal for several deletions (by exchange or gift to the Town) of the lands now held by the park on the northern half of the island, specifically, the so-called Northern Lot, Sawyer Lot, and the Trailer Lot. S. 1777 proposes that these deletions be encumbered by covenants allowing varying levels of use and development ranging from "forever wild." to uses permitted under the current Town zoning, which would include housing, depending on the elevation of the particular parcel. (Above 400 feet elevation - forever wild; between 300 feet and 400 feet - gathering of dead and down wood only, otherwise a natural condition; below 300 feet - permanent covenants identical to the current Town zoning)

If the Northern, Sawyer, and Trailer Lots are to be deleted with covenants, under the present Town zoning, timber harvesting, agriculture, residential and small commerical development, filling and earth moving, could be allowed in portions of these lots. These are among the allowable uses for lands classified by the Town's revised zoning ordinance for Accessible Interior and Remote Interior, the two zoning categories applicable to the lots proposed for deletion. As regards housing, for example, the Accessible Interior zone provides for 2-acre lots, and the Remote Interior zone provides for 20-acre lots. (Accessible Interior being defined as within 1,000 feet, and Remote Interior as further than 1,000 feet from any road)

It is our understanding that the Town expects to sell lots in the Trailer Lot for housing purposes, and possibly to use a small portion of the Northern Lot for this purpose as well. There has also been discussion of making the bulk of the Northern and Sawyer Lot a Town Forest, where forest products would be removed on a sustainable basis. We fully support the idea of a Town Forest on the Northern and Sawyer Lot, and would encourage the Town to do so, and would further encourage the NPS to seek to negotiate such covenant in the transfer of title authorized by S. 1777. Otherwise, we fully support the proposed exchange of Lots among the Town, NPS, and the private owners involved.

However, it may not be physically possible to negotiate the covenants, and to process the title transfers within the specified 90 days as provided in Sec.3(a) of S. 1777. While we do agree that some action-forcing mechanism is desirable in the legislation, if for no other reason than to elevate the priority of the negotiations over other matters, 90 days is probably too short a time. One hundred-eighty days would probably be more realistic.

At least a clarification is needed, that if agreement on the covenants has not been reached within 90 days, the lands do not transfer even without agreement. It is unclear whether the "90 days" or the covenants which the Secretary and Town "agree are necessary" is the controlling factor.

The Isle au Haut Land Conservation Trust is a meritorious concept which should work well in this area, particularly because of the obvious interest of so many of the summer and year-round residents in maintaining the current level and type of uses on the Island. We are certainly pleased to see that both the bill and the Trust instrument would have the Superintendent of Acadia National Park serve as a Trustee. We strongly agree with the provision of the bill which would make it possible for NPS to serve as a co-holder for enforcement purposes of the easements donated to the Trust. It is vital for the NPS to maintain a visible and legal interest in easements donated to the Trust, both because of the Service's continuing interest in the uses of land surrounding the park holdings, and so that if the Trust should ever be dissolved at some time in the future, the NPS can still see to it that the effect of the easement is not lost. Although it is unclear just how such NPS function would work in practice, some measure must be provided so that the lands protected by easements would not be lost to incompatible development in the unlikely event that the Trust should ever be abolished. Section 3(b) of S. 1777 should be retained and clarified to make clear that the NPS "co-holdership" of easements would continue even if the Trust no longer existed. As an alternative to the "co-holdership" of easements, if the Administration's opposition to this provision prevails, then the Trust instrument could be amended to provide that if the Trust is ever abolished, the easements held by the Trust would be transferred to the National Park Service. We prefer the "co-holdership" idea, since it would have the NPS thoroughly involved with the easements from the beginning.

We strongly support the intent and specific provision of Sec. 4 of S.1777 to establish, in legislation, a carrying capacity for Isle au Haut. Although NPS is required to do this for each unit of the System, they have thus far chosen to ignore this requirement. It is therefore, appropriate, especially in such instances as Isle au Haut, where use levels are so clearly tied both to visitor experience and to desires of the resident population, to have the carrying capacity set in the law. The experience of Isle au Haut for visitors is, as I observed earlier in my statement, unique, and much of this essential quality of experience is obtained through the sense of remoteness which too few areas in our Nation can still provide, especially in the crowded East. Section 4 is a very appropriate provision and should be retained.

In conclusion, Mr. Chairman, NPCA is pleased to see that this proposed solution to the Isle au Haut boundary question has finally reached the stage where it is generally agreed to by most if not all interested parties. Much work has gone into the bill now before the Committee - far more than the little that now needs to be done before it can be enacted, though this is obviously the most important step. The Selectmen of Isle au Haut and the Secretary of the Planning Board, Mr. Fred Eustis, are to be commended for their perseverence and willingness to openly discuss Isle au Haut's unique situation with many of us. We urge the enactment of S. 1777 with appropriate minor changes, because we are convinced that the net result for both the park and the Town will be positive and beneficial. Thank you for the opportunity to present our views here today.

Figure 3: Significant Natural Areas
ISLE AU HAUT, MAINE

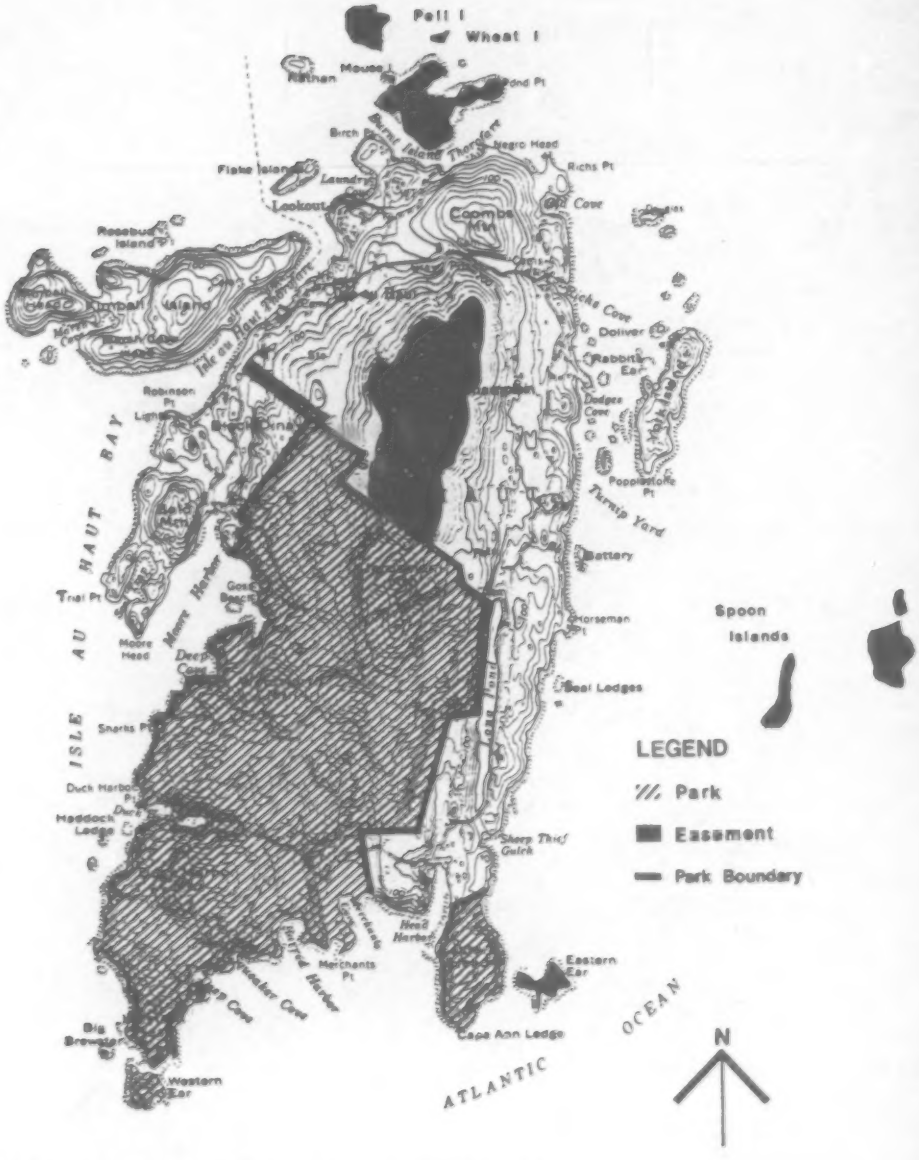

Figure 3: Proposed Park Boundaries
ISLE AU HAUT, MAINE

Senator WALLOP. Thank you very much, Mr. Jarvis. I am glad to hear you supporting the statutory solution to the carrying capacity because there you have the practical aspects I think that waiting for another one to be designated does not have. It is obviously an arguable figure or at least some would find it arguable, but I think once it is in there, then there is a certain degree of certainty and a certain degree of planning capability that goes with that. You don't have to plan for an expansion if you know you are not allowed one. I think it answers some of the concerns that the selectmen raised about the island.

Mr. JARVIS. Yes, sir.

Senator WALLOP. I have been talking with Tony. It appears that the 90-day problems you identified and the ambiguity of the language can be reasonably easily dealt with, and we will try to do so with that.

Mr. JARVIS. Thank you, Mr. Chairman.

[Subsequent to the hearing Mr. Jarvis submitted the following:]

NPCA

April 27, 1982

The Honorable
Malcolm Wallop, Chairman
Subcommittee on Public Lands
and Reserved Water
3204 Dirksen Office Building
U.S. Senate
Washington, D.C. 20510

Dear Senator Wallop:

Enclosed are several documents which we are submitting for the record of you Subccmmittee's hearing of April 14 on S. 1872, the Capitol Reef National Park grazing extension bill.

At the hearing you questioned our statement that any "assessment" of the condition of the range in the park had been done. We did not mean to imply that an official NEPA document, or any extensive study of range conditions in the park had been conducted. Instead, we were referring to informal, on-site analysis done by both our staff in the area (Russell Butcher), and by professional staff of the National Park Service and the Bureau of Land Management.

The enclosed letter of July 10, 1981, from Don Pendleton, BLM, to Bill Supernaugh, NPS, indicates the BLM District Manager's analysis that much of the condition of allotments in the park is in the fair-to-poor range. The enclosed NPS memo of February 5, 1982 further indicates some of the problems which grazing has caused.

Please include all of these documents in the record of the Subcommittee's hearing on this legislation.

Sincerely,

T. Destry Jarvis
Director,
Federal Activities

IN REPLY R...

United States Department of the Interior

4410
U-050

BUREAU OF LAND MANAGEMENT
RICHFIELD DISTRICT OFFICE
150 East 900 North Street
Richfield, Utah 84701

July 10, 1981

National Park Service
Bill Supernaugh
1100 L Street NW Room 3317
Washington D.C. 20240

Dear Mr. Supernaugh:

The following is a preliminary report of the condition and apparent trend data for the four allotments which extend into the Park. The inventory evaluation and data collection are not complete, consequently the numbers may change. The actual location of the studies were not within the Park boundaries, however for draft information it might be extrapolated to the areas within the park. The new inventory method has not proven to be consistent. The extreme variation in vegetation data, due to drought and other causes, from year to year is causing some concern. When the evaluation is completed and we have more reliable data we will feel more comfortable with the data provided at that time.

Allotments	Condition Class (Acres & Percent)						Percent Trend Plots		
Total Acres	Good	%	Fair	%	Poor	%	Up	N/A**	Down
Sandy 1									
28,342	900	3	12,326	43	15,116	53	25	75	0
Sandy 2									
44,455	2,414	5	30,160	68	11,881	27	50	38	12
Sandy 3									
5,409	655	12	4,315	80	439	8	25	50	25
Hartnet *									
25,522	2,970	12	12,670	50	7,834	31	0	89	11

*Seven percent of Hartnet (2,148 acres) was unclassified.
**Trend not apparent

Condition ratings are based on the ecological concept.

Sincerely,

Donald L. Pendleton
District Manager

cc: Supt. Capitol Reef NP

United States Department of the Interior
NATIONAL PARK SERVICE
ROCKY MOUNTAIN REGIONAL OFFICE
655 Parfet Street
P.O. Box 25287
Denver, Colorado 80225

IN REPLY REFER TO:

L58 (RMR-MR)

FEB 5 1982

Memorandum

To: Chief, Office of Legislation, WASO

From: Acting Regional Director, Rocky Mountain Region

Subject: Request for comment on S. 1872, "To amend the Act establishing Capitol Reef National Park in the State of Utah to provide for a grazing phase out schedule, and for other purposes."

RECEIVED
FEB 8 1982
NATIONAL PARK SERVICE
WASHINGTON OFFICE

The following is our response to the questions you posed regarding grazing in Capitol Reef:

1. What are the authorized AUM's for the Federal grazing allotments at Capitol Reef?

Authorized Grazing Use at Capitol Reef National Park in AUM's and Allotments, by Size, with In-Park Acreages and Acres Accessible to Livestock Grazing

Allotment	Total Allot. AUM's	In-Park AUM's	Allotment Acres	In-Park Acres	In-Park Inaccessible Acres
Rock Springs	4,414	185	104,829	2,741	325
Cathedral	3,311	503	130,681	11,688	600
Hartnet	2,938	2,265	93,704	67,440	24,000
Chimney Canyon	38	38	620	620	620
Meeks Mesa	53	53	1,824	1,824	638
Torreytown	B*	A*	9,875	1,900	840
River	75	A*	2,029	500	450
Miner's Mountain	161	A*	17,367	6,050	3,240
Sandy I	1,265	282	43,583	13,436	8,062

34775
Year of the Visitor

Allotment	Total Allot. AUM's	In-Park AUM's	Allotment Acres	In-Park Acres	In-Park Inaccessible Acres
Sandy II	2,400	172	60,680	8,140	4,630
Sandy III	985	680	24,705	18,556	4,967
Waterpocket	3,345	340	81,195	7,495	1,709
Muley Twist	B*	B*	15,676	13,224	8,400
Dry Bench	213	213	14,027	14,027	4,058
Circle Cliffs	B*	B*	33,973	3,200	1,500
Wagon Box	B*	B*	30,065	2,240	2,240
Moody	B*	B*	49,941	600	600
Sleeping Rainbow	48	48	3,520	3,360	0

*A - In-park use is negligible, if any.
*B - Data not available

27504
28795
46879

Most of the grazing allotments at Capitol Reef are alloted on units of land that is partially inside of the park and partially on land outside of the park. The Bureau of Land Management administers all of these allotments.

An in-park study (Newman, et al., 1979) of some of the allotments in Capitol Reef National Park revealed a significant portion of these allotments to be inaccessible to livestock grazing due to physical barriers. Roy (1982) completed this study to include all allotments in the park. The results are shown in the above table and reveal that at least 36% of the in-park portions of the grazing allotments are inaccessible. The out of park portions were not studied but are much more accessible. The park encompasses the Waterpocket Fold, a monocline of much slickrock, cliffs and steep slopes. The areas outside the park are, by comparison, not nearly as difficult for access. Most of the actual use on most of the allotments, except the Hartnet, Sandy III and Muley Twist, is outside the park.

2. What are the actual AUM's on these same grazing allotments in 1981 (information on previous years would also be useful, if available)?

ACTUAL Licensed Grazing Use at Capitol Reef National Park (1974-1981) in AUM's
(From Summary of Livestock Grazing Reports

	Allotment	1974	1975	1976	1977	1978	1979	1980	1981
13%	Rock Springs	50	44	50	69	66	105	34	106
18	Cathedral	123	178	226	171	165	153	116	245
	Hartnet	838	1,263	2,065	1,456	967	1,155	1,018	1,374
–	Chimney Canyon	A*	38	Non-use	38	38	Non-use	Non-use	Non-use
–	Meeks Mesa	B*	19	53	53	Non-use	Non-use	Non-use	Non-use
	Torreytown	46	33	C*	C*	C*	C*	55	Non-use
o	River	6	8	C*	C*	C*	C*	7	Non-use
o ✓	Miner's Mountain	4	16	C*	C*	C*	C*	64	Non-use
	Sandy I	142	246	251	101	125	344	202	247
✓	Sandy II	129	129	168	53	Non-use	39	21	E*
	Sandy III	502	502	527	180	68	650	563	613
	Waterpocket	84	91	F*	F*	284	F*	160	166
	Muley Twist	C*	C*	C*	C*	C*	C*	587	152
–	Dry Bench	Non-use	Non-use	Non-use	Non-use	Non-use	Non-use	Non-use	Non-use
10%	Circle Cliffs	C*	C*	C*	C*	C*	C*	54	127
o 11%	Wagon Box	C*	C*	C*	C*	C*	C*	C*	9
o 5%	Moody	C*	C*	C*	C*	C*	C*	C*	2
+	Sleeping Rainbow	Non-use	Non-use	Non-use	D*	D*	D*	D*	D*
	Total	1,924	2,567	5,076	2,622	1,713	3,170	2,881	3,041

*A - Grazing season April 20 to May 19 was not included in 1974 report.
*B - Grazing season April 1 to June 15 was not included in 1974 report.
*C - Data not available.
*D - Acquired by NPS.
✓ *E - Administratively phased out. due to sale
*F - Information in error, data not presently available.

– totally inside park.
o terrain + lack of water prevent in-park use

3. What is the number of grazing allotments which are both in and out of the park, and which of those are only being used outside the park?

There are 18 grazing allotments at Capitol Reef National Park. Fifteen of these allotments lie both inside and outside the park. The Chimney Canyon, Meeks Mesa and Dry Bench allotments lie totally within this park. Five of these allotments (Rock Springs, Cathedral, Circle Cliffs, Wagon Box and Moody) have less than 10% of their acreage in the park.

Although percentage-of-use AUM's have been shown for the River, Miner's Mountain, Moody and Wagon Box allotments, it is doubtful that any use occurs inside the park due to poor grazing vegetation (a nearly pure pinyon-juniper forest covers the in-park portion of the allotment), lack of water or inaccessibility to cattle. The Dry Bench allotment has been in "non-use" since 1977; the Chimney Canyon allotment has been in "non-use" since 1979. Grazing rights on the Sandy II allotment have been purchased by Tercero Corporation and under the terms of PL 92-207 that portion of in-park grazing on Sandy II has been phased out. Grazing rights on Miner's Mountain have been recently purchased by Everett Williams and similarly have been phased out; Mr. Williams' inherited grazing rights have been retained.

4. Of the 20 or so permits originally scheduled to expire in 1982, how many were actually in use (in terms of number of permittees, leases, and AUM's)? Are there any private lands in the park to which existing grazing privileges appertain?

Two permittees have already been phased out. Joseph Hickman voluntarily resigned from the livestock business and Tercero Corporation recently acquired the historic grazing rights on the Sandy II allotment. Such transfers, according to PL 92-207, are not allowed for in-park lands.

There are 26 more permits scheduled to expire in 1982. These permits are for 738 AUM's of cattle. Nine of these permittees were in "non-use" in 1981. We do not consider the 11 AUM's held by the 4 permittees in the Wagon Box and Moody Allotments to be in an area accessible to cattle so their phasing out would have no practical effect on their operations. (See accessibility chart.)

There is only 0.42 acre of privately held land remaining in Capitol Reef National Park. There are no grazing privileges held on this land.

There are 30 sections owned by the State of Utah within Capitol Reef National Park (state school sections). Nearly all of these fall within Federal Grazing allotments and are subject to livestock grazing. Most are leased by the permittees having contiguous federal leases. PL 92-207 and 36 CFR do not apply to these lands. All of these sections are designated for ownership transfer to the U.S. Government under the State of Utah's Project Bold.

5

1982 Expiration, by Permittee

Allotment	Permittee	Phase Out Date	AUM's	
1. Rock Spring	Jeffery Ranches	5/31/82	106	
2. Cathedral	Jeffery Ranches	5/31/82	118	
	Alvin Taylor	5/31/82	8	
	Leo Jackson	5/31/82	Non-use	
	Cleland Hunt	5/31/82	19	
5. Meeks Mesa	Joseph Hickman	5/31/82	Non-use	
6. Torreytown	Joseph Hickman	5/31/82	Non-use	
	Pace Ranches, Inc.	5/31/82	Non-use	
	Gilbert Hallows	5/31/82	54	
7. River	A. Dietlein & N. Hale	5/31/82	Non-use	
	Denny Mulford	5/31/82	5	
8. Miner's Mountain	Dyle Williams	5/31/82	7	
	Everett Williams	5/31/82	18	
9. Sandy I	Keith Durfey	5/31/82	33	*
	Joseph M. Durfey	5/31/82	Non-use	
10. Sandy II	Tercero Corporation (Formerly N-Bar)	5/31/82	Non-use (Already phased out)	
12. Waterpocket	Don & Afton Taylor	5/31/82	62	*
	Don E. Taylor	5/31/82	25	*
	Mrs. Berta Taft	5/31/82	Non-use	
	Guy Coombs	5/31/82	22	*
	Talmage Bagley	5/31/82	18	*

1982 Expiration, by Permittee

13.	Muley Twist	Ivan Lyman	5/31/82	152 *
14.	Dry Bench	Don E. Taylor	5/31/82	Non-use since 1974
15.	Circle Cliffs	Anthony Coombs	3/31/82)	
		Leland Haws Estate	3/31/82)	127
		Fay & Neal Jepson	3/31/82)	
16.	Wagon Box	Leland Haws Estate	4/15/82)	
		Stucki Land & Livestock	3/31/82)	9
17.	Moody	Al & Connie Jepson	3/31/82)	
		Leland Haws Estate	3/31/82)	2

5. What is your estimate of the economic loss resulting from the elimination of grazing as provided for under current law?

Ranching is an important part of the lifestyle in Wayne County. Assessment of the economic impact depends on who is the "expert" being interviewed. The economic loss to the community by phase out as provided under PL 92-207 will be difficult to model (Hillier, 1982). Some operators are virtually totally committed to the livestock business, such as the Pace operation in the Hartnet and the Jeffery operation in the Rock Springs and Cathedral Allotments. Others, such as Dewey Gifford who has 5 AUM's in the River Allotment are only peripherally or minimally in the livestock business (we don't feel Mr. Gifford's cattle can even get into the park on the River Allotment so a phase out wouldn't affect him). Still others are in the cattle business for income suppliment. This type of operator may have a full or part-time job elsewhere in the county--perhaps as many as 4 or 5 different income-producing sources and ranching is only a part of their livelihood (Patterson, 1982). It is possible that some operators are in the livestock business and operate at a loss for tax purposes or to qualify for special farm subsidy programs for fuel or other considerations.

Hillier (1982) thinks a reasonable economic impact projection could be made from the Parker Mountain Study (USDI, BLM, 1979). He says the data from the analysis of "Herd Change" and "Feed Change" for small, medium and large scale operations was developed linearly. Hillier felt this study would be more useful for our economic impact analysis than the Jacobsen (1981) study. He also suggested contact be made with Dr. Bruce Godfrey at Utah State University (801-750-2294), Dr. Godfrey has done much grazing analysis contract work for BLM and is reportedly quite helpful.

Licensed grazing use at Capitol Reef National Park is reported on a prorated basis. AUM's of in-park use are a direct reflection of acre percentages of allotments, in-park compared to out-of-park. A significant portion of the in-park share of the allotments is inaccessible to livestock (36% inaccessible). But the out-of-park portions are not as geographically constrained. The AUM's we report for in-park use do not consider this, hence the actual utilization is probably much lower. It follows that a phase out economic impact could actually be smaller than one projected from prorated in-park use.

An issue that has never been investigated to our knowledge is that of mitigating economic impacts by offering non-use winter range by phased out livestock operators. A coordinated effort could be made by NPS and BLM to find suitable similar winter range within the Henry Mountains Resource Area which would allow operators to continue traditional grazing use without economic hardship. Another possibility that has not been investigated is that entire allotments could be restructured to accommodate the withdrawal of National Park lands from grazing and absorb displaced livestock operations in a restructuring of neighboring allotments. We would suggest contacting BLM on both the regional and national levels to investigate the feasibility of these suggestions.

6. What will be the impact of continued grazing on recreational use, environmental degradation (in terms of erosion, forage quality, and competition with native wildlife species), and cultural resources (we understand some work has been done showing grazing lands rich in surface sites and caves)?

A somewhat dated but still very valid environmental assessment (EA) of the grazing phase out was prepared by former Capitol Reef Research Biologist Gerard Hoddenbach (1974). Parts 4 and 5 (pp. 10-18) provide an excellent initial answer to this question. Please refer to the enclosed EA.

X National Park lands are special lands. They are set aside for preservation and enjoyment and, by law, are to be maintained in a manner which will leave them "unimpared for future generations". Based on allotment range condition information supplied by BLM we feel the vegetative condition at Capitol Reef is substantially "impared". To verbally summarize the following chart, 61%-96% of our range is in fair to poor condition with the vegetative trend declining or not apparent on 50%-100% of those allotments. We feel this is an unacceptable range condition for public domain lands much less a National Park.

This range condition summary differs from an earlier report (also enclosed). The reason for this is that the earlier report combined the "poor" and the "unclassified (non-range)" categories and some evaluative (site write-up areas) data were omitted. The Bureau of Land Management is confident that

this range condition summary is the best summary that is available from the latest data. The initial report was generated from a first-run, uncorrected computer evaluation. This subsequent summary has been corrected for errors and omissions in the computer program (Patterson, 1982).

21 January 1981. From printout "Allotment Range Condition Information" (Report No. P01A, 9/16/81

Allotment Total Acres	Condition Class (Acres and Percent) Excellent	Good	Fair	Poor	Unclassified (Non-range and Barren)	Percent Trend Plots Up	N/A	Down
Sandy I		21%	74%	5%				
30,146	0	4,750	16,320	1,068	8,008	25	75	0
Sandy II	.5%	38%	49%	12%				
55,560	293	16,160	20,623	5,131	13,353	50	38	12
Sandy III		20%	77%	3%				
6,034	0	1,025	3,926	171	912	25	50	25
Hartnet	0	14%	86%	.01%				
26,258	0	2,186	13,235	63	10,774	0	89	11
Cathedral		4%	65%	31%				
118,979	0	2,414	37,667	18,140	60,758	13	62	25
Waterpocket	6%	20%	42%	32%				
73,669	3,577	11,340	23,473	16,931	18,348		50	50

None of the above acres include National Park Service land. Condition classifications are based on SVIM (Soil Vegetation Inventory Method) inventory completed in 1980. Trend summary is based on 10 or more years of trend studies based on the key area concept, summarized in 1981.

If livestock grazing were to be extended at Capitol Reef we feel AUM adjustments should be made to accommodate wildlife. Public domain lands are managed under the multiple use concept--National Park lands are not. Some allotments have

management plans which do not accommodate wildlife in a manner which is consistent with the National Parks concept. The Hartnet Allotment Plan (3-3-66) states, for example: "There are an estimated 217.7 AUM's which are not useable in pasture 3 along the Waterpocket Fold and west of the Fold. These are reserved for game. . . No reservation was made for wildlife except in the area not useable by livestock".

The visitor experience in some areas of the park is greatly impacted by the effects of livestock use. In Hall's Creek (the in-park portion of the Waterpocket Allotment), at Cottonwood and Muley Tanks, cattle have gathered in concentrated groups (yarding) around these water sources and contaminated the water and soil with nitrogenous and fecal waste. What greets the visitor and wildlife is not a mini-meadow in the slick rock desert but a foul and poisonous, malodorous solution. The former South District Ranger reports that Hall's Creek has a definite stockyard odor virtually year long.

Capitol Reef is rich in surface archeological sites. These sites are particularly susceptible to impact from livestock operations. There are documented cases of cultural resource damage of this type to sites at Canyonlands, Fossil Butte and Capitol Reef contained in the archeological files at the Rocky Mountain Regional Office. Livestock operators impact sites inadvertantly by camping on archeological sites; they may damage sites by artifact collecting and site vandalism. A greater impact to cultural resources comes from the livestock themselves. The surface context is the classical archeological guide to buried material. When this is gone or diminished by livestock trampling the buried material may never be realized. On some sites surface debitage may be the total archeology. When it is disturbed that part of prehistoric man's story is lost. Most of Capitol Reef's range is in fair to poor condition. Open sites are particularly susceptible to damage from erosion. These kinds of cultural resource abuse are contrary to the enabling legislation (Anderson, 1982).

James B. Thompson

James B. Thompson

Bibliography

1. Anderson, Adrienne B., NPS Regional Archeologist, RMR, 1982, (Personal Communication).

2. Hillier, Dave, Economist, BLM District Office, Richfield, Utah, 1982, (Personal Communication).

3. Hoddenbach, Gerard A., 1974. "Environmental Assessment, Proposed Grazing Phase Out, Capitol Reef National Park." U.S. Department of Interior, National Park Service.

4. Jacobson, Kib E., 1981. "The Economic Impact of Potential Changes in Federal Grazing Policies on Ranchers in Wayne County, Utah", (Unpublished Manuscript). A Master of Science thesis to Utah State University in Agricultural Economics.

5. Newgren, R.A., Townley, T., and Hauze, W., 1979. A memorandum of grazing inaccessibility prepared by Capitol Reef ranger staff--a response to congressional subcommittee inquiry of 10-30-79 on grazing activities in the proposed Capitol Reef Wilderness.

6. Patterson, Glen, BLM Range Specialist, Henry Mountain Resource Area, (Personal Communication). Mr. Patterson presented a summary of range conditions prepared by Mr. Max Robinson, BLM Richfield District Office, from the "Allotment Range Condition Information" of 9-16-81.

7. Roy, Cordell J., Resource Management Specialist, Capitol Reef NP, 1982, (Personal Research of CARE files).

8. USDI, BLM, 1979. "Parker Mountain Grazing Management--EIS (Draft)". U.S. Department of Interior, Bureau of Land Management.

IN REPLY REFER TO:

4410
U-050

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
RICHFIELD DISTRICT OFFICE
150 East 900 North Street
Richfield, Utah 84701

July 10, 1981

National Park Service
Bill Supernaugh
1100 L Street NW Room 3317
Washington D.C. 20240

Dear Mr. Supernaugh:

The following is a preliminary report of the condition and apparent trend data for the four allotments which extend into the Park. The inventory evaluation and data collection are not complete, consequently the numbers may change. The actual location of the studies were not within the Park boundaries, however for draft information it might be extrapolated to the areas within the park. The new inventory method has not proven to be consistent. The extreme variation in vegetation data, due to drought and other causes, from year to year is causing some concern. When the evaluation is completed and we have more reliable data we will feel more comfortable with the data provided at that time.

Allotments	Condition Class (Acres & Percent)						Percent Trend Plots		
Total Acres	Good	%	Fair	%	Poor	%	Up	N/A**	Down
Sandy 1 28,342	900	3	12,326	43	15,116	53	25	75	0
Sandy 2 44,455	2,414	5	30,160	68	11,881	27	50	38	12
Sandy 3 5,409	655	12	4,315	80	439	8	25	50	25
Hartnet * 25,522	2,970	12	12,670	50	7,834	31	0	89	11

*Seven percent of Hartnet (2,148 acres) was unclassified.
**Trend not apparent

Condition ratings are based on the ecological concept.

Sincerely,

Donald L. Pendleton
District Manager

cc: Supt. Capitol Reef NP

Deseret News, Salt Lake City 4/15/82

New grazing rights will hurt Utah park

By Joseph Bauman

DESERET NEWS ENVIRONMENTAL WRITER

The Senate is conducting hearings this week on a most unwise bill sponsored by Sen. Jake Garn, R-Utah. It would extend nearly indefinitely grazing rights at Capitol Reef National Park in southern Utah.

The bill making Capitol Reef our newest park was passed after spirited congressional hearings and signed into law by Pres. Richard M. Nixon in 1971. It orders grazing allotments in the park to be phased out between March 31, 1982, and May 31, 1992. (Recently, this deadline was extended by a year.)

Garn's bill would allow renewal of grazing permits for 25 years from the date of the park's establishment, and then during the lifetime of the individual rancher and his heirs or successors.

Deseret News Washington Correspondent Gordon Eliot White reported last November that Garn said he thinks the grazing phase-out passed by Congress in 1971 is much harsher than the Senate originally intended.

What a baffling confession! Does this mean Garn thinks the Senate does not usually know what it is approving? That the presidents do not read the bills they sign into law?

Certainly the House and press knew all about the grazing phase-out before the Senate voted to make Capitol Reef a park. In July 1971, White wrote, "Amendments approved by the (House Interior) committee included a 10-year phaseout of grazing after present permits expire."

Garn said that if the permits are terminated, many ranchers would be forced to sell their livestock and perhaps their land.

I obtained a copy this week of a 1982 draft study on grazing in Capitol Reef, prepared by the Park Service apparently in response to questions from Congress. It shows that actual licensed grazing use at Capitol Reef amounts to 3,185 Animal Unit Months.

There are 18 grazing allotments at the park. Fifteen of them lie both inside and outside the park. Five of the 15 have less than 10 percent of their acreage in the park.

Only three allotments — Meeks Mesa, Dry Bench, and Chimney Canyon — are totally within the park. None of these has grazing presently.

The federal government may be able to mitigate the economic impacts of the phase-out by offering winter range within the Bureau of Land Management's Henry Mountain Resource Area, the draft report says.

The most important reason grazing should be phased out is that it interferes with the visitor's enjoyment of a park that belongs to all of us.

Garn noted that under the 1916 act governing the establishment of national parks, grazing can be allowed in parks if "such use is not detrimental to the primary purpose" of the park.

Unfortunately for the ranchers involved, grazing is detrimental to Capitol Reef's purpose as a park.

The 1982 draft report says that based on range condition information supplied by the BLM, the Park Service experts think "the vegetative condition at Capitol Reef is substantially 'impaired.' "

Between 61 and 96 percent of the range is "in fair to poor condition. The documents calls this "an unacceptable range condition for public domain lands, much less a national park."

"The visitor experience in some areas of the park is greatly impacted by the effects of livestock use. In Hall's Creek (the in-park portion of the Waterpocket Allotment), at Cottonwood and Muley Tanks, cattle have gathered in concentrated groups (yarding) around these water sources and contaminated the water and soil with nitrogenous and fecal waste," the report says.

"What greets the visitor and wildlife is not a mini-meadow in the slickrock desert but a foul and poisonous, malodorous solution."

National parks are our country's greatest outdoor treasure. In our parks, America is the envy of the world. Preservation of this special land is mandated by the public, Congress and president.

To try at this late date to undo the great national concensus setting up Capitol Reef is not only a disservice to that park. It also threatens the sanctity of the national park concept itself.

Senator WALLOP. We thank you for appearing here this morning. Now on S. 1872, if we could have Deputy Director Hutchison again, please.

STATEMENT OF IRA J. HUTCHISON, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, ACCOMPANIED BY DON GILLESPIE, UTAH STATE COORDINATOR, NATIONAL PARK SERVICE; DERREK HAMBLY, SUPERINTENDENT, CAPITOL REEF NATIONAL PARK; AND DON PENDLETON, BUREAU OF LAND MANAGEMENT

Mr. HUTCHISON. Thank you, Mr. Chairman. I have with me at the table the Utah State coordinator for the National Park Service, Don Gillespie, and the superintendent of Capitol Reef, Derrek Hambly, who will join me in presenting this testimony.

I do appreciate the opportunity to appear before you today to testify on behalf of the Department in support of S. 1872, a bill to amend the act establishing Capitol Reef National Park in the State of Utah to provide for a grazing phaseout schedule.

Mr. Chairman, the purpose of Capitol Reef National Park is the preservation and interpretation of the unique geological formations such as the Waterpocket Fold and the natural ecosystems that this area represent. In accordance with the purpose of the park, it is our long-term goal to phase out the domestic livestock grazing in the park.

For many years, the administrative policies of the National Park System have specified eventual elimination of the domestic livestock grazing in all National Park System areas where it exists, with the exception of certain historical areas. Grazing in certain of those areas, historical areas, is important to maintenance of the historical scene.

The Congress has generally agreed with a phased reduction and eventual elimination of grazing in national parks. The language in the Capitol Reef legislation is specific in providing for this eventuality.

S. 1872 is patterned after the Grand Teton National Park statute and with minor amendments to conform the bill to the original authorizing legislation for Capitol Reef Park, we would support enactment of this bill.

Section 3 of the act of December 18, 1971, which established Capitol Reef National Park, provides for an expiration of grazing within the park. Most of the Federal lands transferred from the Bureau of Land Management to the National Park Service by the act had outstanding grazing leases. The 1971 act provided for a phaseout based upon the time remaining in the existing leases plus one extension. Each of the 1-year leases was granted a 10-year extension, while existing 10-year leases were granted a 1-year extension.

Under the current law, the existing leases will be eliminated over the next 10 years with the last lease expiring on May 31, 1992.

Under the provisions of S. 1872, the grazing leases or other forms of occupancy existing on December 18, 1971, would be extended so that all leases would be extended for the lifetime of those individ-

uals holding the leases and their heirs, successors and assigns if they were members of the holder's immediate family on that date.

There are currently 18 grazing allotments at Capitol Reef National Park. Fifteen of these allotments lie both within and outside the park. Five have less than 10 percent of their acreage within the park, and three allotments are totally within the park. Of the 58 allotments, 7 are not currently being used or only receive minimal use. For four of the allotments—River, Miner's Mountain, Moody and Wagon Box—there is very little grazing use occurring due to poor grazing vegetation, lack of water, and the inaccessibility of these areas for cattle.

The Dry Bench allotment has not been used since 1974, and the Chimney Rock allotment has been unused since 1979. Grazing rights on the Sandy II allotment have been purchased by the Tercero Corp., and under the terms of Public Law 92-207, that portion of the allotment within the park will not be continued.

Grazing rights on Miner's Mountain have recently been purchased by Everett Williams and were also phased out. However, the grazing rights inherited by Mr. Williams were retained.

Termination of all grazing in the park at this time would reduce the existing allotments by 25 percent from 17,393 AUM's o 13,975 AUM's. The effect on individual ranchers by the elimination of grazing at this time would range from minimal to extreme, depending on the amount any given allotment overlaps the park. The total use within the park during 1982 is 3,418 AUM's. To date, two permits have been phased out. An additional 26 permits, totaling 738 AUM's are due to expire at the end of the current fiscal year.

Cattle ranching in this area has been a long-standing tradition and continues to be an important element in the local economy. We support the concept in S. 1872 of trying to provide an equitable solution to the current problems and minimize the impacts upon local ranchers and their lifestyle. We do recommend a series of amendments so that continued grazing within the park is consistent to the extent practicable with the purposes for which the park was established.

First, we ask that the bill be amended to limit the transfer of allotment to persons and their heirs who were occupying or utilizing the land on December 18, 1971. This will provide for the protection of the lifestyle for those individuals during their lifetime and that of their children and is consistent with the current grazing management plan for Grand Teton National Park.

This would furthermore provide a consistent definition for immediate family in both parks, and allows a limited extension of grazing for those individuals whose rights were grandfathered by the act creating the Capitol Reef Park. However, it also provides for the eventual termination of grazing which is appropriate. Continued grazing within the park must be accomplished in a manner that does not result in any permanent damage to public resources. Since the park was established, there has been little study of the effects of grazing on the park or its environment since it had not been considered a long-term use of the park.

The existing leases at Capitol Reef National Park have been administered by the Bureau of Land Management since the overall allotment includes lands that are for the most part managed by the

95-870 O - 82 - 8

BLM. We believe that such interagency cooperation should be continued, especially regarding the protection of those resources within the park which have been given special recognition by the Congress through the addition of this area to the National Park System.

Finally, we recommend a series of technical amendments to the bill to clarify the language and its intent to insure that its effect pertains to grazing and use incident to grazing only.

With the adoption of these amendments, and with your permission, we submit those for the record, we support the enactment of S. 1872.

We will be pleased to answer any questions you might have.

[The prepared statement of Mr. Hutchison follows:]

STATEMENT OF IRA J. HUTCHINSON, DEPUTY DIRECTOR NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING S. 1872, A BILL TO AMEND THE ACT ESTABLISHING CAPITOL REEF NATIONAL PARK IN THE STATE OF UTAH TO PROVIDE FOR A GRAZING PHASEOUT SCHEDULE.

April 14, 1982

MR. CHAIRMAN, I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO TESTIFY ON BEHALF OF THE DEPARTMENT IN SUPPORT OF S.1872, A BILL TO AMEND THE ACT ESTBLISHING CAPITOL REEF NATIONAL PARK IN THE STATE OF UTAH TO PROVIDE FOR A GRAZING PHASE OUT SCHEDULE.

THE PURPOSE OF CAPITOL REEF NATIONAL PARK IS THE PRESERVATION AND INTERPRETATION OF THE UNIQUE GEOLOGICAL FORMATIONS, SUCH AS THE WATER POCKET FOLD, AND THE NATURAL ECOSYSTEM THAT THIS AREA REPRESENTS. IN ACCORDANCE WITH THE PURPOSE OF THE PARK, IT IS OUR LONG-TERM GOAL TO PHASE OUT DOMESTIC LIVESTOCK GRAZING IN THE PARK.

FOR MANY YEARS, THE ADMINISTRATIVE POLICIES OF THE NATIONAL PARK SYSTEM HAVE SPECIFIED EVENTUAL ELIMINATION OF THE DOMESTIC LIVESTOCK GRAZING IN ALL NATIONAL PARK SYSTEM AREAS WHERE IT EXISTS, WITH THE EXCEPTION OF CERTAIN HISTORICAL AREAS. GRAZING IN CERTAIN OF THOSE AREAS IS IMPORTANT TO MAINTENANCE OF THE HISTORICAL SCENES.

THE CONGRESS HAS GENERALLY AGREED WITH A PHASED REDUCTION AND EVENTUAL ELIMINATION OF GRAZING IN NATIONAL PARKS. THE

LANGUAGE IN THE CAPITOL REEF LEGISLATION IS SPECIFIC IN PROVIDING FOR THIS EVENTUALITY.

S. 1872 IS PATTERNED AFTER THE GRAND TETON NATIONAL PARK STATUTE, AND WITH MINOR AMENDMENTS TO CONFORM THE BILL TO THE ORIGINAL AUTHORIZING LEGISLATION FOR CAPITOL REEF PARK, WE WOULD SUPPORT ENACTMENT OF THE BILL.

SECTION 3 OF THE ACT OF DECEMBER 18, 1971 (85 STAT. 639), WHICH ESTABLISHED CAPITOL REEF NATIONAL PARK, PROVIDES FOR AN EXPIRATION OF GRAZING WITHIN THE PARK. MOST OF THE FEDERAL LANDS TRANSFERRED FROM THE BUREAU OF LAND MANAGEMENT TO THE NATIONAL PARK SERVICE BY THE ACT HAD OUTSTANDING GRAZING LEASES. THE 1971 ACT PROVIDED FOR A PHASE OUT BASED UPON THE TIME REMAINING IN THE EXISTING LEASES PLUS ONE EXTENSION. EACH OF THE ONE-YEAR LEASES WAS GRANTED A TEN-YEAR EXTENSION, WHILE EXISTING TEN-YEAR LEASES WERE GRANTED ONE TEN-YEAR EXTENSION. UNDER THE CURRENT LAW THE EXISTING LEASES WILL BE ELIMINATED OVER THE NEXT TEN YEARS, WITH THE LAST LEASE EXPIRING ON MAY 31, 1992.

UNDER THE PROVISIONS OF S. 1872, THE GRAZING LEASES OR OTHER FORMS OF OCCUPANCY EXISTING ON DECEMBER 18, 1971, WOULD BE EXTENDED SO THAT ALL LEASES WOULD EXPIRE 25 YEARS FROM THAT DATE, AND THEREAFTER, THEY WOULD BE EXTENDED FOR THE LIFETIME OF THOSE INDIVIDUALS HOLDING THE LEASES AND THEIR HEIRS, SUCCESSORS AND ASSIGNS IF THEY WERE MEMBERS OF THE HOLDER'S IMMEDIATE FAMILY ON THAT DATE.

THERE ARE CURRENTLY 18 GRAZING ALLOTMENTS AT CAPITOL REEF NATIONAL PARK. FIFTEEN OF THESE ALLOTMENTS LIE BOTH WITHIN AND OUTSIDE THE PARK. BUT FIVE HAVE LESS THAN TEN PERCENT OF THEIR ACREAGE WITHIN THE PARK. THREE ALLOTMENTS ARE TOTALLY WITHIN THE PARK.

OF THE 18 ALLOTMENTS, SEVEN ARE NOT CURRENTLY BEING USED OR ONLY RECEIVE MINIMAL USE: FOR FOUR OF THE ALLOTMENTS--RIVER, MINER'S MOUNTAIN, MOODY, AND WAGON BOX--THERE IS VERY LITTLE GRAZING USE OCCURING DUE TO POOR GRAZING VEGETATION, LACK OF WATER, AND THE INACCESSABILITY OF THESE AREAS FOR CATTLE. THE DRY BENCH ALLOTMENT HAS NOT BEEN USED SINCE 1974, AND THE CHIMNEY ROCK ALLOTMENT HAS BEEN UNUSED SINCE 1979. GRAZING RIGHTS ON THE SANDY II ALLOTMENT HAVE BEEN PURCHASED BY THE TERCERO CORPORATION AND UNDER THE TERMS OF PUBLIC LAW 92-207, THAT PORTION OF THE ALLOTMENT WITHIN THE PARK WILL NOT BE CONTINUED. GRAZING RIGHTS ON MINER'S MOUNTAIN HAVE RECENTLY BEEN PURCHASED BY EVERETT WILLIAMS AND WERE ALSO PHASED OUT, HOWEVER, THE GRAZING RIGHTS INHERITED BY MR. WILLIAMS WERE RETAINED.

TERMINATION OF ALL GRAZING IN THE PARK AT THIS TIME WOULD REDUCE THE EXISTING ALLOTMENTS BY 25 PERCENT FROM 17,393 AUM'S TO 13,975 AUM'S. THE EFFECTS ON INDIVIDUAL RANCHERS BY THE ELIMINATION OF GRAZING AT THIS TIME WOULD RANGE FROM MINIMAL TO EXTREME, DEPENDING ON THE AMOUNT ANY GIVEN ALLOTMENT OVERLAPS THE PARK. THE TOTAL USE WITHIN THE PARK DURING 1982 IS 3,418 AMU'S. TO

DATE TWO PERMITS HAVE BEEN PHASED OUT. AN ADDITIONAL 26 PERMITS, TOTALLING 738 AUM'S ARE DUE TO EXPIRE AT THE END OF THE CURRENT FISCAL YEAR.

CATTLE RANCHING IN THIS AREA HAS BEEN A LONGSTANDING TRADITION AND CONTINUES TO BE AN IMPORTANT ELEMENT IN THE LOCAL ECONOMY. WE SUPPORT THE CONCEPT IN S. 1872 OF TRYING TO PROVIDE AN EQUITABLE SOLUTION TO THE CURRENT PROBLEM AND MINIMIZE THE IMPACTS UPON LOCAL RANCHERS AND THEIR LIFESTYLE. WE DO RECOMMEND A SERIES OF AMENDMENTS SO THAT CONTINUED GRAZING WITHIN THE PARK IS CONSISTENT, TO THE EXTENT PRACTICABLE, WITH THE PURPOSES FOR WHICH THE PARK WAS ESTABLISHED.

FIRST, WE ASK THAT THE BILL BE AMENDED TO LIMIT THE TRANSFER OF ALLOTMENT TO PERSONS AND THEIR HEIRS WHO WERE OCCUPYING OR UTILIZING THE LAND ON DECEMBER 18, 1971. THIS WILL PROVIDE FOR THE PROTECTION OF THE LIFESTYLE FOR THOSE INDIVIDUALS DURING THEIR LIFETIME AND THAT OF THEIR CHILDREN AND IS CONSISTENT WITH THE CURRENT GRAZING MANAGEMENT PLAN FOR GRAND TETON NATIONAL PARK. THIS WOULD FURTHERMORE PROVIDE A CONSISTENT DEFINITION FOR IMMEDIATE FAMILY IN BOTH PARKS, AND ALLOWS A LIMITED EXTENSION OF GRAZING FOR THOSE INDIVIDUALS WHOSE RIGHTS WERE GRANDFATHERED BY THE ACT CREATING THE CAPITOL REEF PARK. HOWEVER, IT ALSO PROVIDES FOR THE EVENTUAL TERMINATION OF GRAZING WHICH IS APPROPRIATE.

CONTINUED GRAZING WITHIN THE PARK MUST BE ACCOMPLISHED IN A MANNER THAT DOES NOT RESULT IN ANY PERMANENT DAMAGE TO PUBLIC RESOURCES. SINCE THE PARK WAS ESTABLISHED, THERE HAS BEEN LITTLE

STUDY OF THE EFFECTS OF GRAZING ON THE PARK, OR ITS ENVIRONMENT, SINCE IT HAD NOT BEEN CONSIDERED A LONG-TERM USE OF THE PARK. WE BELIEVE THAT INTERAGENCY COOPERATION SHOULD BE CONTINUED ESPECIALLY REGARDING THE PROTECTION OF THOSE RESOURCES WITHIN THE PARK WHICH HAVE BEEN GIVEN SPECIAL RECOGNITION BY THE CONGRESS THROUGH THE ADDITION OF THIS AREA TO THE NATIONAL PARK SYSTEM.

FINALLY WE RECOMMEND A SERIES OF TECHNICAL AMENDMENTS TO THE BILL TO CLARIFY THE LANGUAGE AND ITS INTENT TO ENSURE THAT ITS EFFECT PERTAINS TO GRAZING AND USES INCIDENT TO GRAZING ONLY.

WITH THE ADOPTION OF THESE AMENDMENTS, WE SUPPORT THE ENACTMENT OF S. 1872. THE LANGUAGE OF OUR AMENDMENTS IS ATTACHED.

AMENDMENTS TO S.1872

1. On page 1, revise lines 3 through 5 to read as follows:

> That section 3 of the Act entitled, "An Act to Establish the Capitol Reef National Park in the State of Utah," approved December 18, 1971 (85 Stat. 639), is amended to read as follows:

This is a perfecting amendment. The printed bill refers to the Act of December 18, 1971, only its popular name and by citation only to title 16 of the United States Code, which has not been enacted into positive law; in addition the second reference in the printed bill to Section 3 is redundant.

2. On page 2, lines 1 and 2, strike out ", or for other purposes not inconsistent with the Act of August 25, 1916 (39 Stat. 535)," and insert in lieu thereof "or uses incident to grazing,".

This amendment limits the continuation of use and occupancy only to grazing and uses incident to grazing, and eliminates the possibility of grandfathering any other unintended uses.

3. On page 2, lines 5 and 6, strike out "succesors, or assigns of such person," .

This amendment limits the continuation of grazing privileges only to the holder and his heirs and is consistent with the individuals originally covered in Section 3 of the Act establishing Capitol Reef National Park.

4. On page 1, line 7, and on page 2, lines 11 and 17-18, strike out "the Act of December 18, 1971," and insert in lieu thereof "this Act"; on page 2, lines 9-10 and 15, strike out "Secretary of the Interior" and insert in lieu thereof "Secretary"; and on page 2, line 17, strike out "Capitol Reef National Park" and insert in lieu thereof "park".

This is perfecting amendment. It conforms the text of the bill to that of the 1971 Act.

Senator WALLOP. Thank you. I have some, and I wonder if Mr. Tom Pendleton is here to come up? First, there is a question from Senator Jackson for you, Mr. Hambly, and that is in your professional opinion, is livestock grazing having any detrimental effects on the park resources of Capitol Reef, and if so, in what way?

Mr. HAMBLY. I am not a professional grazing man, and I could only state a personal opinion from personal observation. In some areas of the park, grazing has had a definite effect on the natural plant community of the area, especially the riparian habitats along the stream ways. The habitat of the cattle yarding and so forth has created, impacted areas especially around the sparse tree growth in some of the areas. Down at Hall's Creek in many cases the lingering odors stay there all year long to the detriment of anybody visiting the area.

Senator WALLOP. It depends on where you come from whether you think that is offensive.

Mr. HAMBLY. There is fouling of the water down there which in many cases cannot be utilized at all by the visitor.

Senator WALLOP. Mr. Pendleton, who administers the grazing in the Cattle Ridge Park?

Mr. PENDLETON. The Bureau of Land Management, now the Richfield District; actually there are 49 allotments that go within the district. Under the current boundary proposal there are 12 allotments in the park.

Senator WALLOP. Do any of those allotments extend outside the park?

Mr. PENDLETON. Most all of them; there are about three that are entirely within the park, and the rest also involve BLM-administered lands.

Senator WALLOP. BLM I assume administers the allotments outside the park as well?

Mr. PENDLETON. That is correct.

Senator WALLOP. For the record, would you identify yourself?

Mr. PENDLETON. I am Donald Pendleton, District Manager for the Bureau of Land Management in Richfield, Utah.

Senator WALLOP. I apologize for that. Has the arrangement proved workable in your opinion?

Mr. PENDLETON. Well, I believe so. I don't know of any problems; none that I am aware of.

Senator WALLOP. Superintendent Hutchison, does BLM have a land use plan for the affected area?

Mr. HUTCHISON. I'm sorry? I was getting used to being a superintendent.

Senator WALLOP. Deputy Director—the question is, Does the BLM have a land use plan for the affected area?

Mr. HUTCHISON. No, sir. I will defer to the Superintendent, but I do not believe they have such for the national park portion of the grazing area. Is that true?

Mr. HAMBLY. No. It has been more of a cooperating activity because we felt that the grazing would be phased out on schedule.

Senator WALLOP. Has it been working, the arrangement, to date?

Mr. HAMBLY. In most cases.

Senator WALLOP. There is no BLM land use plan; is that what you are saying?

Mr. HUTCHISON. No; not to my knowledge, but I think what we anticipate now with the new phasing schedule that has been proposed here, that certainly within that framework it would be most appropriate that the two agencies get together and begin to develop that, and in our discussions with BLM and other department officials we have every assurance and feel that that will take place.

Senator WALLOP. Presumably when you go to discussing that it will include cattle grazing?

Mr. HUTCHISON. Yes, sir.

Senator WALLOP. OK. Sometimes you have to——

Mr. HUTCHISON. Yes, sir. I would like to go back for just a minute to follow up on the comments of the Superintendent in relation to damage or impact. I think we freely admit that we are looking at it from a very superficial, comparatively superficial angle. We have not had the studies. We have not had the kind of data analysis that would lead us to an irrefutable claim.

We do believe, however, that with the combined expertise of both BLM and the Park Service that again within the proposed phase that we certainly would be able to answer that question fairly soon. In fact, Mr. Chairman, if you will allow me to add, we are now discussing with an expert the conduct of a study to perhaps try to identify some of the impact such as they might be.

Senator WALLOP. Either Mr. Pendleton or Mr. Hambly, in your opinion, is there a public support for grazing in the park?

Mr. HAMBLY. I believe there is local public support in Wayne and Garfield Counties for grazing in the park. Through our planning process we do get public input and some of the, one of the issues that we raised was to modify the park boundaries or to continue grazing in there. That was carried on through the planning system so it does show some local support for that, and to elaborate on the latter point just a little bit, we are in the process of developing the land use plan now, and following the grazing environmental impact statement, then we will get down to the activity which will involve—require involvement not only of the livestock users but the Park Service and BLM working together to work out the plan for the grazing operations if the bill is passed.

Senator WALLOP. As a professional, could you give me your assessment of the condition of grazing lands within the park now?

Mr. PENDLETON. We have studied some of them within the park, some outside, going back as far as 1967, and the overall trend is static. As Mr. Hambly stated, there are some areas that may look a little tough, some that are improving. Overall the conditions are static since that time.

Senator WALLOP. It is my understanding, and I don't know this, but from Senator Garn's testimony that grazing takes place primarily in the winter, and is it your opinion that winter grazing is less detrimental than summer grazing ?

Mr. PENDLETON. It definitely is, grazing when plants are dormant.

Senator WALLOP. If Congress were not to adopt 1872 and the Garn plan, and phaseout takes place as apparently scheduled, can BLM absorb the same number of animal unit months without damaging the land outside the park?

Mr. PENDLETON. No. There is no indication that there is excess forage available on the outside. At the present time—and we are doing our planning now—but all indications are—there is absolutely not. It may be quite the other way.

Senator WALLOP. I wonder if you could provide that for the record, and the other thing that occurs to me listening to the description and looking at the map, if we do phase out, how are you going to keep the livestock out of the park?

[Subsequent to the hearing the Department supplied the following:]

The BLM would not be able to compensate for the loss of the livestock animal unit months (AUM's) within the park, because all the public lands in this are fully allocated at their capacity to other livestock permittees. The enclosed chart shows that there were 4,558 AUM's inside the park, and 10,898 AUM's outside the park, in each of the affected allotments. The 10,899 AUM's outside the park represent the total livestock grazing capacity and are already fully allocated to respective living stock permittee. In addition, all the other public land allotments within this area are also allocated at their capacity, and could not absorb additional livestock use without adversely affecting other livestock operations.

Allotment Acreage & AUM

Allotment name	Land Status and Acreage			Non-Park AUM's		In-Park AUM's	
	Public	State	National Park	Public	State	National Park	State
Cathedral	104,645	14,348	11,688	2,478	356	520	100
Chimney Canyon	-	-	620	-	-	38	-
Dry Bench	-	640	13,387	-	-	276	47
Hartnet	23,396	2,868	67,440	673	76	2,265	266
Meeks Mesa	-	-	1,824	-	-	53	-
River	2,029	160	500	75	-	-	-
Rock Springs	89,767	12,321	2,741	4,414	740	185	3
Sandy #1	24,663	5,484	13,436	983	47	282	4
Sandy #3	4,495	1,620	18,556	305	103	680	17
Sleeping Rainbow	-	640	2,880	-	-	48	9
Torrey Town	9,477	226	1,900	500	-	29	-
Waterpocket	36,531	3,577	7,495	1,470	137	182	32
Total	295,003	41,884	142,467	10,898	1,459	4,558	478
percent	62	8	30	63	11	26	
					(Total State)		

Mr. PENDLETON. There is no way that I know of that you can keep them out without a fence which would probably be about 50 miles long. I don't know how you would keep them out without a fence.

Senator WALLOP. Wouldn't that have esthetic consequences to the park as well?

Mr. PENDLETON. It would be an administrative headache.

Mr. HAMBLY. We estimate somewhere between 30 and 35 miles of fencing, and this would be including using natural barriers which there are plenty of in the park.

Senator WALLOP. But they are in the park, and presumably there would still be some grazing that takes place in the park, would there not?

Mr. HAMBLY. I meant natural barriers along the established boundary of the park.

Senator WALLOP. You are only reckoning 30 to 35 miles?

Mr. HAMBLY. That is the rough estimate the park staff has established. It is a long park. It is 75 miles long, but for instance, fencing out of the Strike Valley area would require about 2 miles of fencing for the whole Strike Valley area and would exclude the cattle from even moving down the reef.

Senator WALLOP. Do you agree generally with that?

Mr. PENDLETON. Our estimate is about 50 miles out. It would take some administrative changes to utilize as much of the topography as can, but there are some pretty tough areas to build a fence in.

Mr. GILLESPIE. If I might interrupt, the 35 or 50, whichever it ends up being, is contingent upon grazing being eliminated according to the current legislation.

If grazing is continued, the mileage of fence would be probably considerably expanded because of the need to manage specific grazing allotments within the park area.

Senator WALLOP. How do you figure that you are going with it now and you don't have it there? That sounds, if you will forgive me, slightly bureaucratic.

Mr. GILLESPIE. We have been bureaucratic in a sense that we have kind of—we have ignored any strict management because we have assumed it would be phased out.

If we continue, it is considered to be probable it would require some additional development within the park to manage individual allotments.

Senator WALLOP. You have been able to tolerate it for the period of time you have been talking about now, and the extension isn't that much longer a period of time potentially. That seems spiteful, if you will forgive me. It just seems like a contrivance rather than a management plan.

Mr. HUTCHISON. I think what we are hearing basically is some preliminary thinking that has gone on. I think that decisions like this would be within the realm of consultation with BLM and the Department as a whole to decide just what actions would or would not need to be taken or would be appropriate or inappropriate.

Senator WALLOP. I can appreciate that. It sounds a little like a threat, and when you have a situation there, and there appears not to have been any humongous outcry that irretrievable, irreversable

damage is going to take place—now you are talking about a relatively minor extension unless somebody lives a very long time.

Mr. HAMBLY. Might I make an addition to that? These allotments are set up for so many animals or so many AUM's, and the animals move freely in the allotments. You might have only, well, just as an example, 100 acres of a 3,000 acre allotment in the park and 3,000 animals, but all 3,000 animals at any given time could be on that 100 acres if the water——

Senator WALLOP. I know that, and so do a lot of other people who own intermingled private land within the public domain know that grazing allotment sometimes intrudes on their private lands. That is part of the problem that we have with the public lands.

I think the public that doesn't come from public land states generally views those boundaries as contiguous and doesn't realize that there is comingling all along and those kinds of problems happen, but still your problem hasn't been that acute to date. Why would it be more acute tomorrow morning assuming we were able to pass the act today?

Mr. HAMBLY. We feel it may have been that acute and we feel that we were probably in error in not paying more attention to the actual grazing in the park, but again, we felt as if it were going to be phased out on schedule and BLM was administering the grazing. Much of the drainage from that area is down to the park, and a lot of the available water is in the park, and the animals do move down to the water.

Senator WALLOP. Let me ask Mr. Pendleton, what will that do to grazing patterns on the other public lands outside the boundaries of the park in terms of pattern and usage? Won't that begin to cause you some severe management problems?

Mr. PENDLETON. I think that is exactly why we have to sit down and look at the situation, the site-specific situation, and develop these plans together on the ground, on the allotment as a whole.

Senator WALLOP. That I find is a more sensible approach to it than the threat. It may be that you have to do that. I am not saying that you won't.

Mr. GILLESPIE. It wasn't intended as a threat. We were just trying to lay all the facts out before you so that nothing was withheld during this hearing.

Senator WALLOP. OK. Well, I thank you all very much. We have next a panel of Mr. Guy Pace, Wayne County, and the Cattlemen's Association from Wayne County, Utah; Dell LeFevre, Utah Farm Bureau Federation, Garfield County, Utah; Dr. James Bowns, range specialist, Southern Utah State College.

OK, gentlemen; whatever order you wish to proceed.

STATEMENT OF GUY G. PACE, WAYNE COUNTY AND UTAH CATTLE ASSOCIATION

Mr. PACE. Mr. Chairman, my name is Guy G. Pace. I live in Tisdale, Utah. I am here to testify on behalf of Senate bill 1872 on behalf of the Utah Farm Bureau, on behalf of myself, and the ranchers holding permits in the regional national park.

I also serve as an elected official and I am the county commissioner of Wayne County. I am also a vice president of the Utah

Cattle Association in which all of these organizations are in full support of this bill as we are stating.

The historical aspect of our ranch operation began in 1880 when my grandfather and my father's grandfather began ranching in Wayne County, and this has been a continuous livestock operation to this date. At the present time, I have three sons and myself running the ranches which make up four generations of Paces. These sons have degrees from the Utah State Agricultural College, University, in animal science, agricultural economics.

We have been cross-breeding our cows for a number of years and have perhaps one of the strongest herds in the western United States both genetically and physically.

The point I am trying to make is that the fact that we graze in the park does not deteriorate from the quality of our cattle nor the conditions. The cattle do well. In fact, this spring these cattle are pastured on the mountain in the summertime and graze in the Capitol Reef National Park and the BLM during the—from November 1 to May 30 of each year—which has been the practice since the Taylor Grazing Act was enacted in 1934 which established the boundaries. That is actually what put us in the park.

We are probably the most extreme case of the ranchers that are involved. We are 77 percent in the park. Mr. Chairman, as the Wayne County commissioner, the importance of grazing in the Capitol Reef National Park has become the greatest concern of all ranchers in Wayne and Garfield Counties since the park was expanded in January of 1969.

I have a newspaper here which came out on the 27th of February, 1969, and photographs and pictures of the approximately 20, 30 families that were involved, and I would like to have this attached to my testimony.

Senator WALLOP. We have obvious difficulties in printing the pictures. What I would say to you is it will be part of the committee's files, and we will keep it as a part of the committee files.

Mr. PACE. From the standpoint of economics, economic impact, there are 45 ranch families directly affected by the termination of grazing in Capitol Reef National Park. The two rural counties would lose around $500,000 annually. However, of more significance is the direct impact on the individual ranchers and their source of livestock. The majority of these families have been grazing the cattle on the same land before Utah was a State. This was long before we had public lands or national parks, and we had adjusted our operation around new legislation under BLM's stewardship.

To phase out or terminate these permits at this time will force us to sell our livestock and perhaps our base operating land and facilities under forced sale or distressed conditions, and we cannot think of a more unjustifiable or objectionable fate for such an American asset. Most of these fourth generation people that are operating on these ranches, these men are in the prime of their life. They are more productive now than at any other time, and probably owe more money and if these permits are phased out, it would be a real hardship.

Wayne County is a depressed area. The tax base is small, and to lose any more of our cattle industry would result in losing more of

our people, and we don't know where to go. Our industry, we have tried to diversify in our county. We have tried to. We have tried to get the intermountain power project in Wayne County which would have created jobs and industry, but because of the park we were not able to get it because of the pollution of the air the coal-generating plant might have, so as a result of that, we have no industry.

Tourism through the park has increased, but we feel that most of the areas that the cattle, livestock, graze in, there is no conflict of use. The tourists and the cattle, they get along real well, and because of the roadways that are undeveloped, and this is rough country, bad water, the park does not necessarily advocate that people go up in there because the facilities are too distant.

The entire area in question is a winter and spring grazing area. Livestock are placed on the range in November after most of the park is closed to tourists and are removed by May 31 prior to the major usage by the tourists. Tourists who do visit the park and surrounding area that the cattle will be trailed out of the park seem delighted to see this historical part of the old West in action.

The unique formations within Capitol Reef National Park are not susceptible to damage by domestic livestock grazing. Natural barriers with available forage and existing management programs have proven the compatibility of continued livestock and the maintenance of all park values.

Thank you, sir.

[The prepared statement of Mr. Pace follows:]

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Statement of Guy G. Pace, Teasdale, Utah, speaking in behalf of Utah Farm Bureau Federation, himself and other ranchers holding grazing permits within Capitol Reef National Park, and in behalf of the Wayne County Commission. Statement made before U.S. Senate Energy Subcommittee on Public Lands and Reserved Water on S. 1872 on April 14, 1982

Mr. Chairman, my name is Guy G. Pace. I live in Teasdale, Wayne County Utah. I appreciate the opportunity to testify today in favor of Senate Bill 1872 in behalf of the Utah Farm Bureau Federation, in behalf of myself and other ranchers holding permits to graze cattle in the Capitol Reef National Park, and in behalf of the Wayne County Commission, where I serve as an elected county commissioner. I also serve as a vice president of the Utah Cattlemens' Assn, and this bill has the full support of the cattle industry in Utah.

May I give you some history of the area in and around what is now the Capitol Reef National Park, both from a general perspective and some information about my own family ranching operation.

Our own ranching operation began in the 1880's when my grandfather and my father began farming and ranching in Wayne County. This has been a continuous livestock operation from then until now. At the present time, I have three sons working with me on this ranch, making a fourth generation of cattlemen over about 100 years in my family whose management program has included grazing in what has now become the Capitol Reef National Park.

These sons have worked hard to educate themselves. One holds a degree in animal science and another holds a degree in agricultural economics from Utah State University. The younger son is now attending a technical college.

This combination of technical education and practical training on the ranch gives our operation the capability of being a highly efficient, productive cattle unit. We have been cross breeding our cattle for a

number of years and we now have what is perhaps one of the strong herds in the Western United States, both genetically as well as physically.

These cattle are pastured on mountain ranges during the summer months and graze in the Capitol Reef National Park and adjacent Bureau of Land Management land from November 1 to May 31 of each year. This particular arrangement has existed since the Taylor Grazing Act of 1934 was implemented and our allotment boundaries were established. My lifetime has been spent planning and preparing my operation so that my sons could be involved with me in maintaining this ranch. As I mentioned, my sons are young men with families of their own. They have built homes on the ranch. It would be such a waste of their energy and talents and education to force us to divest ourselves of this ranch during the peak period of our productive lives.

Now, Mr. Chairman, I would like to say something in my capacity as an elected county commissioner for Wayne County. Grazing and production of red meat is the economic mainstay of Wayne County. The planned phaseout of grazing in the Capitol Reef National Park, which would begin this year, is of great concern to our county residents. This concern has grown since the park was first established in January, 1971. We were especially concerned at that time because we had no opportunity to make formal comments on the legislation. We attended several meetings with our congressmen in our area during the time the legislation was under discussion. Imagine our consternation to discover later that the hearings we held were actually informal meetings and not formal hearings for the record.

I have here a copy of the February 27, 1969 Richfield Reaper newspaper which has the headline on a front page story reading "We're Not Statistics" and "Future of 41 Families In Doubt As result of LBJ 'Land Grab!"

The newpaper carries a photograph of about half of the 200 or more people in these 41 families who are directly impacted by the grazing phaseout schedule that went into this bill without any opportunity for us to comment on it. And I want to emphasize that this newpaper article is only referring to the families in Wayne County. There were quite a few more in Garfield County. I'd like to include this newspaper article as part of my testimony so your committee, Mr. Chairman, might have a little better understanding of why we are here to ask you to modify the law a little bit to give us more time to adjust to the loss of our grazing privileges in the Capitol Reef National Park.

Now as I say, from an economic standpoint, we have about 45 ranching families directly affected by this termination of grazing in Capitol Reef. But we have discovered that the economic impact to our two rural counties will be about $500,000 annually. However, of even more significance than this figure, is the direct impact on the individual ranchers and the social lifestyle of our area. Again I say, we are a rural, livestock-based county. Most of these ranching families, like my own, have been grazing cattle on this same area even before statehood came to Utah. The ranches were there before what we now know as "public lands," or national parks and the ranchers have adjusted their operations around the changes that have come, such as Bureau of Land Management laws and stewardship concepts.

To phase out or terminate these permits at this time will force us to sell our livestock, and perhaps many acres of base operating land and buildings, etc. under what would have to be considered "forced sale" conditions. We cannot think of a more objectionable, unjustified and immoral fate for such an American asset as these ranching operations.

As I mentioned before, and I want to emphasize again, many of these ranching operations are fourth generation and are now operated by men and women in the prime of their productive years. Most have had to borrow money from lending institutions just to operate in these past two years of very lean economic times. This would cause undue hardship on these ranchers if grazing permits are not extended for a longer period of time.

Wayne County has a population of about 2,000 people. We are one of the most economically depressed areas of the state. Our tax base is very small. We have repeatedly been denied the opportunity to expand our industrial tax base. In each instance, the presence of the national park has played a role in our losing the opportunity to extract our mineral resources.

Now, if we are forced to further reduce our livestock industry, we will effectively push even more of our people out of our county. We do have a little timber industry, but that is limited to production of mining props for mines in adjacent counties.

Tourism was the great hope for our county when the park was established back in 1971. But that hope has not really materialized. We have not seen any development of motels, restaurants, campgrounds and other tourist-related facilities to any big extent. Larger cities in other counties have reaped these benefits.

The park itself has very limited access and this will not change until and unless the federal government appropriates massive amounts of money to build highways over very rough terrain. There are no support facilities for hikers in the inner reaches of the park and off-road vehicles are, quite properly, discouraged in the park.

It is our belief that there is no basic conflict between tourist or nature study usage of the park and livestock grazing in the winter season. The entire area in question is a winter and spring grazing area. Livestock are placed on the range in November, after most of the park is closed to tourist use and the livestock are removed by May 31, prior to major usage by tourists.

Tourists who do visit the park and surrounding areas as the cattle are being trailed out of or into the park seem delighted to see this historical part of the "Old West" in action.

The unique formations within the park are not susceptible to damage by domestic livestock grazing. There are natural barriers, coupled with the pattern of available forage and existing management programs by the BLM which have proven the compatability of grazing and maintenance of the park values.

Again, Mr. Chairman, we are here to speak in favor of S. 1872. We recognize that Senator Garn and Senator Hatch are not trying to extend grazing within the park in perpetuity, and we support them on this point. We are only asking that we be given the same consideration in time to adjust to an end to grazing in the park as was given to graziers in the Teton National Park when it was established.

S.1872 would give the ranchers and the county government and all the businesses in our county that depend so heavily on the livestock industry an extended period of time to adjust to the severe economic impact that a rapid end to grazing will force upon us.

We respectfully urge the United States Senate to adopt S. 1872. May I express appreciation to you and your committee for the opportunity to give our views on this important matter here today.

Senator WALLOP. Thank you very much, Mr. Pace. It occurred to me while we were sitting here listening, they complained about the odor of the livestock in Capitol Reef, and that is not all that different from complaining about the odor of lobsters in Acadia. They are part of the historical commercial pattern that exists, and somehow or another, if one is acceptable, so too might the other be.

Some people find the odor of fish offensive. It is just part and parcel of the pattern of use that existed before it was a park, and I guess I find it somewhat disappointing that that would be viewed as a primary detriment from the use of cattle, and I hope we can find that resolved in some other way.

Mr. LeFevre.

STATEMENT OF H. DELL LeFEVRE, UTAH FARM BUREAU FEDERATION

Mr. LEFEVRE. Mr. Chairman, members of the committee, my name is Dell LeFevre. I live in Boulder, Utah. It is a privilege to testify on Senate bill 1872 on behalf of the Utah Farm Bureau, on behalf of myself, and other ranchers holding permits to graze cattle in the Capitol Reef Park, on behalf of the county commission where I serve as an elected county commissioner.

We also have given the committee a letter of support for House 1872 from the American Farm Bureau.

Mr. Chairman, my great, great grandfather, William LeFevre, was one of the first settlers to move into the Garfield County area in 1868. My wife's great grandfather, Lyman, was the first homesteader in Boulder in 1889. I started grazing the Capitol Reef area. From that day to this day, there have been four and five generations of our combined families who have established and sustained the local economy through grazing.

To show how important grazing is in the Capitol Reef Park to us, I would like to read a letter from a neighboring rancher:

> I would like to let those who are still interested in knowing the financial effects cancellation of my grazing rights in the Capitol Reef Park will have on my operation. The AUM's are 624 on Federal lands, 63 on State lands, with winter grazing for 98 cattle from November 1 to May 31. This grazing takes care of 40 percent of the grazing needs of my ranch operation from the months above. Without this grazing or the forage to replace it, I would have to reduce my cattle herd by approximately 40 percent because without this grazing, I would have to raise feed to replace this or use summer pasture to raise winter feed. For the last 5 years, my gross income has been approximately $45,000, leaving me a net profit of about $12,000 to $15,000. Taking a reduction of 40 percent on this income, it would leave me with an income of about $9,000, but since the expenses of my operation would not likely be less, I might well come out with a gross income of $30,000 less, and a net income of practically nothing. I believe other livestock ranchers grazing in this Capitol Reef Park would suffer much the same financial loss, and some even more. Thank you for your concern.

As a county commissioner, cattle and timber is still the heart of our economy in the county, and with the housing down, sawmills are closing down, agriculture is our biggest industry. Grazing grosses four additional dollars for our county for every dollar spent, for every dollar produced. It would mean the end to many supply businesses such as grocery stores, service stations, who depend upon grazing.

We not only have the Capitol Reef Park, we have got the Bryce Canyon Park, Red Canyon, Glenn Canyon Recreation Area. This

makes other economic sectors impossible to develop such as strip mining coal, gasification plants.

Agriculture is down in the last 10 years. Our census has come up 10 people. Our schools is going down. Escalhanie High School 6 years ago had 120 students. Today they have 70. Our other economy still depends upon grazing in the Capitol Reef Park. Please don't forget the acreage in question have been grazed for four generations before Lyndon Johnson decided to expand the park almost as the final act of his term on January 21, 1969.

What impact grazing livestock will have on the expanded area of the Capitol Reef—livestock do not interfere with tourism or scenic values. Much of the grazing in these areas is inaccessible to the majority of the visitors. Livestock are not damaged in the area. We know they haven't been for 90 years. Loss of grazing will reduce in a way forage built up for grazing purposes.

Finally, Mr. Chairman, if grazing rights in Capitol Reef are denied, not only our livelihood but our heritage of four and five generations of pioneer families will be destroyed for no reason. I ask you to consider that, the impact versus what really is no impact by continuing to allow grazing in the Capitol Reef Park.

Thank you very much.

[The prepared statement of Mr. LeFevre follows:]

Statement by Dell LeFevre, Boulder Utah, Before U.S. Senate Energy Subcommittee on Public Lands and Reserved Waters. Testimony is on behalf of Utah Farm Bureau Federation, Garfield County Commission, Mr. LeFevre and Other Garfield County Ranchers Holding Grazing Permits Within Capitol Reef National Park. April 14, 1982

Mr. Chairman, members of the committee, it is a high honor and a privilege for me to testify before you today in favor of Senate Bill 1872, sponsored by Senator Jake Garn and Senator Orrin Hatch of my home state of Utah.

I am here today on behalf of the 16,000 family members of the Utah Farm Bureau Federation, on behalf of the Garfield County Commission, where I serve as an elected county commissioner, and on behalf of the ranchers in my county who would be directly affected by S. 1872. My I add that we have just handed the committee staff a letter of full support for S. 1872 from the American Farm Bureau Federation, representing more than 3,200,000 families.

Mr. Chairman, I am here to support S. 1872 because it is the last hope many of us have to soften the economic impact we face as a result of Public Law 92-207, adopted in 1971 to establish the Capitol Reef National Park. This law established a very rapid grazing phaseout schedule for the park. My purpose here is not to in any way criticize the Park itself. S. 1872 would modify the grazing phaseout schedule in P.L. 92-207 to make it consistent with the phaseout schedule used in other national parks legislation.

Unfortunately, when the park was established in 1971, we ranchers had no opportunity to formally comment or express our views as to the impact the law would have on us. Moreover, the county officials in office at that time did not have an opportunity to fully evaluate and comment on the economic impact an end to grazing would have on our county tax base and the businesses in our county.

My own personal experience with regards to the park will illustrate the typical situation we now face.

My great-great-grandfather, William LeFevre, was one of the first pioneers to move to Garfield County in 1868. My wife's great-great-grandfather, Amass Lyman, was the first homesteader in Boulder, Utah in 1869 and he began grazing his livestock in the Capitol Reef area at that time. From that day until now, our family has depended upon the Capitol Reef area for all or part of our winter range. There have been five generations of our combined families who established and have helped sustain the local economy through livestock grazing. A rapid phaseout of grazing in the Capitol Reef National Park will bring this tradition to an end. This phaseout will also mean an end to supporting businesses that depend upon the stockmen for their livelihood.

To help your committee fully understand the importance of this bill now before you, may I read a letter to Senator Garn from one rancher who faces an early end to his grazing privileges in the Capitol Reef area:

"Mr. Jake Garn:

It appears that the final decision as to livestock grazing in Capitol Reef National Park has not been reached as yet. I would like to let those men still interested know as to the financial effect the cancellation of my grazing rights in the Park will have on my operation.

The amount of A.U.M.'s I have is 624 on Federal land and 63 on the state land. (These are) the winter grazing for 98 cattle from Nov. 1 to May 31. This grazing takes care of 40 percent of the grazing needs of my ranch operation for the months mentioned above. Without this grazing or other forage to replace it, I would have to reduce my cow herd by approximately 40 percent because without this grazing I would have to raise feed to replace this or use summer pasture to raise winter feed.

For the last five years my gross income has been approximately $45,000, leaving me a net income of about $12,000 to $15,000. Taking a reduction of 40 percent on this income would leave me with an income of about $9,000. but since the operating

"expense of my operation would not very likely be less, I might well come out with a gross income of $30,000 or less and a net income of practically nothing. I believe other livestock ranchers grazing in the Capitol Reef Park would suffer much the same financial loss and some even more.

Thanks for your concern and help in this serious problem.

Yours Truly,

/s/ Ivan Lyman "

May I emphasize, Mr. Chairman, that in our area there are no other opportunities to obtain winter grazing rights. The BLM lands are fully utilized. And since our county is about 92 percent federally owned and 7 percent state owned, there is no private rangeland available at any price in the meager 1.2 percent of our county that is in private ownership.

Speaking as a county commissioner for Garfield County, I would note that grazing of livestock on the public lands is a vital part of our economic base. We do have some timber resources and over the years these have been very important to us. But the recent cutback in housing and general construction has forced a reduction in timber harvest as well. We have felt the impact of this reduction.

Tourism is a part of our county's economic base that we hope will grow. But livestock grazing is still the most important part of our county's lifestyle and is very important to our tax base. Studies show that every dollar produced by Utah agriculture generates about four more dollars for our economy. So you can see how important this issue of a rapid grazing phaseout versus a more extended grazing phaseout in Capitol Reef is to our county.

Like Wayne County, we have been prevented from developing several other potentially significant industries in our area. We have major coal deposits and they must remain locked up, for now, due to the presence of the national parks. There was the Kaiparowits Plateau coal project that was stopped by federal authorities. The Escalante coal gasification project is being held up by federal action, and it seems like every way we turn we are reminded that the federal government controls everything we do in our county.

We not only have the Capitol Reef National Park, but the Bryce Canyon National Park, Red Canyon and Glen Canyon National Recreation Areas in our general area. My point, Mr. Chairman, is that livestock grazing is one area that we have traditionally been allowed to earn some private-sector dollars and that has been an important segment of our local tax base.

According to census figures, our county population has increased by only 10 people in the past ten years. Our own Escalante High School has dropped from 120 students to 70 students in the past ten years. Mr. Chairman, I have a lot of productive years left in me. I want to spend those years as a rancher. I have to spend them as a rancher because I have mortgaged everything I have, including my time, to pay for the ranch I now have.

I would like to again emphasize that the area we are talking about in S. 1872 had been grazed for five generations prior to the establishment of the park. Many of those years of grazing have been under the careful management of the Bureau of Land Management. We ranchers have tried to adjust our grazing each year to accomodate the changing conditions of the ranges each year, depending upon how much moisture and feed there was available. But we have always tried to be on the

conservative side. No one has a greater interest in preserving the carrying capacity of the ranges than the rancher who is dependent upon them. I think all the professionally prepared evidence now before this committee, or which will be presented to the committee, relating to the condition of the forage in the park will support my view that grazing, under the management of the BLM, has not harmed the forage or the park resources in any way over the past ten years since the park came into being.

Finally, Mr. Chairman, we have found by searching through the records, as Senator Garn told you, that both our Senators and the congressman who represented our area when the park was established supported the very same grazing phaseout schedule which is now being proposed in S. 1872. Some of the leading citizens who were supporting the park's establishment at that time were also on record as favoring the Teton National Park plan for ending grazing in the Capitol Reef Park. And there is no record that we could find of any objection to the longer phaseout from any of the environmental groups who were supporting the establishment of the park in 1971.

Therefore, Mr. Chairman, on behalf of the Farm Bureau, the ranchers inolved directly, and the Wayne County Commission, I respectfully urge the United States Senate to adopt S. 1872. Thank you for the opportunity to appear before this committee.

Senator WALLOP. Thank you, Mr. LeFevre. We appreciate your testimony.

Dr. Bowns.

STATEMENT OF DR. JAMES E. BOWNS, RANGE ECOLOGIST, SOUTHERN UTAH STATE COLLEGE

Dr. BOWNS. Mr. Chairman, my name is Dr. James E. Bowns. I am a range ecologist sharing a joint appointment in the Range Science Department at Utah State University and the Life Science Department in Southern Utah State College. My duties include teaching, range research, and extension range management specialist for the southern part of Utah.

I have over 20 years of experience in range management and range ecology. I have spent 18 years in southern Utah where I have studied and worked extensively on desert ranges. I have evaluated range conditions and livestock management over a large portion of the park over many years with ranchers, BLM range managers, and university scientists. I have been involved in this grazing phaseout controversy since 1974 when I evaluated the National Park Service Environmental Assessment and commented on that at a formal hearing in Wayne County in August of that year.

I want to emphasize that livestock grazing is not detrimental to ranges or to plants. It is a natural process, and the only way that range plants can be harvested to produce food and fiber, and at a considerably less, lower expenditure of energy than other aspects of agriculture.

Research has shown that proper grazing actually has positive impacts on the rangelands. Livestock grazing is not synonymous with overgrazing. Overgrazing only occurs when the range is grazed with the wrong kind of animal during the wrong season of the year, with an excessive number of animals or when animals are improperly distributed. Overgrazing exists when there are significant changes in species composition, abundance in distribution, when we have increased soil erosion and we have changes in plant vigor. Some of these things are difficult to determine.

These changes can be determined only with repeated observations and with extensive training in range ecology, range management, plant philosophy, and plant identification.

It is my professional opinion that the ranges in Capitol Reef National Park are properly managed, and they are largely what I would term to be, the mid- to high-serial stages and range trend which is our most sensitive indicator of current management practices, is improving or at least stable, depending on the site.

I would like to talk about that site for just a moment. You get into an area like Capitol Reef, you have a variety of range sites. One site varies from another by its ability to produce a particular kind and amount of vegetation, so therefore, they are going to respond differently to grazing.

There are some areas in that park that I would predict would change very little, if any, if livestock were completely removed from the park. The areas that I would consider the key areas, the major grazing areas, I consider to be improving. I am not acquainted with the riparian zones that are in the park that have been re-

ferred to by the National Park Service here today. Those are areas that animals do tend to congregate on. It is my opinion, and I could be wrong on this, that those are very, very limited areas within the park, but the areas that I think the grazing occurs in, in my opinion, those grazing areas are improving, or are at least stable.

Using Park Service figures, I would like to talk a little bit about stocking rate which is a very important factor in evaluating management of ranges. The Park Service indicates there are 204,611 acres available for grazing within the park, but only 50 percent of this is suitable for livestock because of steep slopes, slick rock areas or other physical conditions. The average grazing season in the park is reported as 5.3 months, primarily winter grazing.

From those, I can calculate a stocking rate of 19 acres per AUM. That AUM term has been used today. That means the amount of forage required to maintain 1,000 pounds of cattle equivalent for 1 month. This means then we would have 19 acres allocated per cow per month. If I use BLM figures, this comes out to 23 acres per AUM.

According to Mr. Pendleton, he indicates that the ranchers in that area are only using 50 percent of their authorized use. In other words, they are only running half the livestock for half the time. If I use those figures, this calculates out to be 38 to 46 acres per AUM actual stocking rate. Now that probably doesn't mean much to most people, but that indicates that the stocking rates on those areas are extremely light. That is the lightest that I have ever seen that I can recall on any desert range, so I am not the least bit concerned that those ranges are overstocked. In fact, I think they are stocked on the very light side.

It is my conclusion that there is no biological reason for terminating grazing within the park. Such action would create severe economic and social hardships on the ranchers presently grazing those areas. Using a study produced by Colorado State University, it has been estimated that termination of grazing would result in an annual economic loss of $516,645, and 4,365 man-days of employment. These ranges that are only used for a part of the year are an essential part of these ranchers' overall operations, and stock trailing through this park are absolutely necessary.

If you are familiar with the geologic formations, there are only certain ways that they can go from their summer ranges to their winter ranges, and these stock trails are essential.

Exclusion of livestock, total exclusion, would require extensive fencing which has been mentioned today, and I won't try to estimate how many miles of fence, but it would be expensive to construct and maintain and would in my opinion cause considerable biological and esthetic deterioration. Fencing would likely be more objectionable to tourists than the presence of cattle. My experience in the park has been that I have a difficult time telling when I am within the park boundaries and when I am on surrounding BLM land, and I think that is probably the way it should be rather than to construct expensive fencing.

Development of additional livestock water would also help relieve grazing pressure in the park in those areas where livestock tend to congregate, the riparian zones that have been mentioned. Talking to the local ranchers, there is apparently, it is apparently

feasible to pipe water from surrounding mountainous areas down into the park. I could see this would help tourists. It probably would be water that would be suitable for human consumption.

Passage of Senate bill 1872 would be extremely beneficial to the affected ranchers and their families, without, in my opinion, significant adverse effect on the park.

I would be glad to answer questions if you so desire.

[The prepared statement of Dr. Bowns follows:]

STATEMENT BEFORE THE
SUBCOMMITTEE ON PUBLIC LANDS AND
RESERVED WATER OF THE SENATE ENERGY COMMITTEE

CONCERNING THE PHASE-OUT OF LIVESTOCK GRAZING WITHIN CAPITOL REEF NATIONAL PARK

April 14, 1982

Dr. James E. Bowns
Range Ecologist

95-870 O - 82 - 10

Mr. Chairman and members of the subcommittee: My name is Dr. James E. Bowns. I am Professor of Range Ecology sharing a joint appointment in the range science department at Utah State University and the Life Science Department at Southern Utah State College where my duties include range research, teaching, and extension range management specialist for southern Utah.

I have over 20 years of experience in range management with 18 years in southern Utah. I have worked and studied extensively on desert ranges, many of them similar to Capitol Reef National Park.

The Capitol Reef National Park is within my area of responsibility and I have worked in and around the Park for the past 11 years. I have evaluated range conditions and livestock management over essentially the length and width of the Park on many occasions. I have provided National Park Service biologists with information on range management principles, plant identification, and range ecology. I have also toured these ranges with cattle ranchers, BLM range managers, and university scientists on a regular basis.

My involvement with the phase-out of livestock grazing in the Park dates back to 1974 when I worked with the former Park biologist and subsequently evaluated the draft environmental statement at a public hearing in Loa, Utah on August 14, 1974.

Proper grazing is not detrimental to plants or rangelands. Grazing is a natural process and the only way that range vegetation can be harvested for the production of food and fiber, and at a lower expenditure of energy than under intensive agriculture. Plants have sustained grazing pressures since time immemorial and grazing can be and is beneficial to rangelands.

When ranges are grazed by the wrong kind of animal, during the wrong season of year, with excessive numbers of animals, or if the animals are improperly distributed then overgrazing does occur. Overgrazing exists when there are significant changes in species composition, distribution or abundance, increased soil erosion, and changes in plant vigor. These changes can be determined only with repeated observations over time and with extensive training in range ecology, range management, plant physiology and plant taxonomy.

It must be recognized that the Park is located in an arid to semi-arid region and the flora and fauna have evolved under these climatic and environmental conditions. In order to accurately assess the impact of grazing an evaluation must include an

analysis of the individual range sites that occur as a result of the diversity of geologic formations, the main attraction of the Park. One range site differs from another by the kind, proportion and amount of plants produced and will respond differently to grazing than another. For instance, soil compaction is not a problem on sandy soils and trampling on other soils and under certain moisture conditions can be beneficial because hoof action loosens the soil surface and forces plant seeds into the ground.

According to Park Service figures approximately 204,611 acres are available for grazing, of which about 50% is unsuitable for livestock because of steep slopes, slick rock or other physical conditions. A total of 1014 cattle are licensed to graze the Park for 5.3 months primarily during the winter. This results in an authorized stocking rate of 19 acres per animal unit month. Using BLM figures the stocking rate would be 23 acres per animal unit month. However, BLM records indicate that the ranchers are only grazing at 50% of their permitted use. This results in an actual stocking rate of 38 and 46 acres/a.u.m. respectively using National Park Service and BLM figures. This is an extremely light stocking rate and certainly within the tolerance limits of the ranges within Capitol Reef National Park.

It is my professional opinion that livestock grazing within the boundaries of the Capitol Reef National Park is being properly managed and range trend (our most sensitive indicator of current management practices) indicates that these ranges are improving or at least not deteriorating. I see no basis for the assumption that these ranges are deteriorating as a result of livestock grazing, therefore, I find no biological reason for terminating grazing within the park.

Terminating grazing would create tremendous economic and social hardships on the ranchers presently grazing within the Park, because these ranges are an essential part of their overall management plan. Stock trails through the Park are also necessary for moving animals between summer and winter ranges.

It has been estimated that termination of grazing would result in an annual economic loss of $516,645 and a loss of 4,365 man days of employment. These figures were arrived at by using a study by Cook, Taylor, and Bartlett (1980) corrected for inflation.

Excluding livestock from the Park would require extensive fencing which would be expensive to construct and maintain and would, in my opinion, cause considerable biological and aesthetic deterioration. Fencing would likely be more objectionable to Park visitors than the presence of cattle.

Development of additional livestock water within the Park would help relieve grazing pressure in areas where livestock presently tend to congregate.

Passage of Senate Bill 1872 would be extremely beneficial to the affected ranchers and their families without, in my opinion, significant adverse impacts on the Park.

Literature Cited

Cook, C.W., G. Taylor, and E.T. Bartlett. 1980. Impacts of Federal Range Forage on Ranches and Regional Economices of Colorado. Colorado State Univ. Exp. Sta. Bull. 5765.

IMPACTS OF FEDERAL GRAZING ON THE ECONOMY OF COLORADO

by

E. T. Bartlett, Range Science
R. G. Taylor, Range Science
J. R. McKean, Economics

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August 1979

Table 45. Multipliers on ranch sales to export, by region expanded to assess direct and indirect losses in regional and state economic output and employment per AUM reduction in federal forage.

	Multipliers				Direct and indirect effects		
REGIONS	Business[1]	Income[2]	Employment[3]		Revenue $/AUM	Salaries $/AUM	Hired Man-days Man-days/AUM
Northwest	1.96	2.71	55	Cattle	61.33	9.43	.63
				Sheep	66.50	10.35	.68
Northeast	2.40	3.03	66	Cattle	63.29	21.63	.62
Southeast	1.85	2.25	52	Cattle	42.28	9.11	.44
				Sheep	52.93	6.53	.54
San Luis	1.30	1.60	30	Cattle	40.07	12.98	.44
				Sheep	51.06	18.66	.56
Southwest	2.12	2.92	60	Cattle	56.54	8.00	.58
				Sheep	81.39	19.74	.84
STATE	2.40	3.03	66	TOTAL	72.89	13.36	.73

[1]dollars of regional sales per dollar of ranch sales to final demand

[2]dollars of regional income per dollar of ranch payment to labor

[3]number of man-years regional jobs created per million dollars of ranch sales to final demand

Updated - April 7, 1982

CAPITOL REEF NATIONAL PARK
LIVESTOCK GRAZING ISSUE

Prepared by C. Booth Wallentine
Utah Farm Bureau Federation

BACKGROUND

In the last 90 minutes of his presidency, on January 21, 1969, President Lyndon B. Johnson issued Presidential Proclamation number 3888 enlarging the Capitol Reef National Monument in Wayne and Garfield Counties in Utah to 245,229 acres, approximately six times its original acreage. Opportunity provided to local officials, ranchers, and others affected by this action to comment or protest the enlargement at that time was inadequate.

Subsequently, on December 18, 1971, Congress enacted Public Law 92-207 designating the enlarged monument as a National Park. Section 3 of the law provided for a phase-out of livestock grazing following the expiration of the then-current permits "and one renewal thereafter."

An administrative action by the Assistant Secretary of Interior for Fish and Wildlife and Parks interpreted this renewal language to mean one 10-year renewal for holders of 10-year permits, and 10 one-year renewals for holders of one-year grazing permits, with all grazing to be terminated not later than May 31, 1992.

There are approximately 40-45 ranch families directly affected by the termination of grazing holding approximately 4,500 animal unit months of permitted use. (No precise delineation has been made available to permittees showing which individual permittee AUM's are within the park boundaries and which are on Bureau of Land Management land outside the boundaries.)

X

ECONOMIC IMPACT

A 1979 study by Colorado State University Department of Range Science, College of Forestry and Natural Resources, demonstrates that for each federal AUM eliminated, $86.25 in business sales and .73 man days are lost annually to that state's economy. Adjusted for 1982, this loss would be approximately $114.81 per AUM and .97 man days lost per AUM.

The economies of Wayne and Garfield Counties are more dependent upon livestock grazing than most any area of the state. Therefore, the economic impact of eliminating AUM's is at least as severe as in the Colorado study. Thus:

4,500 AUM's x $114.82 = $516,645 annual loss to economy

4,500 AUM's x .97 = 4,365 employed man days lost

More significant, however, is the direct impact on the individual ranchers affected. For many of them the termination, without compensation of their previously purchased grazing rights, will fall at, or near, the midpoint of their productive ranching careers. A large percentage of

these ranchers will be forced to sell their livestock, and perhaps their base operating land and facilities, under "forced sale" or distressed conditions, resulting in further losses.

RESOURCE VALUES

Expansion of the original monument boundaries by some 215,000 acres in 1969 placed vast areas inside the monument which have little or no value as a national park. Much of this expansive area has historically been used for livestock grazing. Much of the area has no unusual scenic, archeological, or other unique value. The best use of much of this acreage is livestock grazing.

Moreover, livestock grazing in what is now Capitol Reef National Park historically predates fruit production in the Fruita settlement. This fruit-producing area has been preserved, according to Park Service officials, for its historical value. Certainly Fruita is not historically unique as a fruit-growing area in Utah. But the historical value of livestock grazing in the park is of equal or greater significance than the limited fruit production. Livestock grazing is immeasurably more important to the economy of the area.

NO RESOURCE USE CONFLICT

There is no basic conflict between tourist or nature study usage of the park and livestock grazing. The entire area in question is a winter and spring grazing area. Livestock are placed on the range in November, after most of the park is closed to tourists, and are removed by May 31, prior to major usage by tourists.

Tourists who do visit the park and surrounding areas as the cattle are being trailed out of the park seem delighted to see this historical part of the "old west" in action.

FORAGE CONDITION

Utah State University range scientists, as well as other public land specialists, believe the condition of forage within the park has significantly improved over the past 20 years and the upward trend continues.

The unique formations within Capitol Reef National Park are not susceptible to damage by domestic livestock grazing. Natural barriers, coupled with available forage and existing management programs, have proven the compatibility of continued livestock grazing and maintenance of the park values.

LIMITED ACCESS FOR TOURISTS

Park officials must currently discourage tourist access to most of the areas where livestock graze, because roadways are inadequate and support facilities for hikers, etc., are too distant. Park officials cannot provide necessary protection for tourists in these areas under existing budgetary limitations. (Loss of life has already occurred when a tourist went into the remote areas without proper equipment, etc. Stockmen, tending

their cattle, have been called upon to rescue stranded tourists who have strayed into remote regions of the park).

Congress is not expected to appropriate funds soon for access ways into these non-unique areas which are grazed.

FENCING THE PARK

To rigidly adhere to the current park boundaries, following the ultimate termination of grazing, would require many miles of fencing at an exhorbitant cost and annual maintenance. Extimates of construction costs for the fencing range up to $4,000 per mile.

EQUITY QUESTIONS

When Congress established the CRNP, the Senate adopted a grazing phaseout schedule similar to that used when other national parks were established, i.e., a minimum of 25 years for permittees licensed as of the date the park was established, plus the lifetime of any heir, successor or assignee, if such persons were members of the permittee's immediate family on the date the park was established.

The House adopted a much more restrictive schedule and refused to concur in conference.

It is believed, therefore, that permittees in CRNP were unfairly treated when compared to permittees in Grand Teton National Parke, for example.

REQUESTED ACTION

It is requested that Congress:

1. Amend PL 920207 to provide CRNP permittees equity with Grand Teton National Park's grazing permittees by amending section 3 of the Act to read as follows:

   ...Where any Federal lands included within the park by this act were legally occupied or utilized on the date of approval of this Act for grazing purposes, pursuant to a lease, permit, or license issued or authorized by any department, establishment, or agency of the United States, the person so occupying or utilizing such lands and the heirs, successors, or assigns of such person, shall, upon the termination of such lease, permit, or license, be entitled to have the privileges so possessed or enjoyed by him renewed from time to time, subject to such terms and conditions as the Secretary of the Interior shall prescribe, for a period of twenty-five years from the date of approval of this Act, and thereafter during the lifetime of such person and the lifetime of his heirs, successors, or assigns but only if they were members of his immediate family on such date, as determined by the Secretary of the Interior:...

2. Reconsider the basic question of whether it should be public policy to completely eliminate livestock grazing in the entirety of Capitol Reef National Park, in view of the arguments on compatibility of grazing with the resource values in this particular park, the limited access to traditional tourists, the exhorbitant fencing costs necessary to adhere to the park boundaries, the severe economic impact such federal policy will place upon the local economy, and the need to maintain maximum beef production through the use of rangeland resources.

3. Prohibit the use of any federal, state or local government funds, or funds provided by any other means, to implement the planned grazing phaseout of livestock grazing in Capitol Reef National Park, pending full consideration of the requests listed above.

Senator WALLOP. Thank you very much, Dr. Bowns. Just generally—I realize that you have stated that you are not familiar with the particular riparian areas within the park and the effects of grazing on them, but generally speaking, livestock or wildlife, any of God's creatures, use riparian areas more heavily than they do surrounding areas, generally speaking, in the kind of country that would be comparable to that in Capitol Reef.

What is the overall effect of grazing on riparian areas? Do they recover?

Dr. BOWNS. They certainly have the potential to recovery faster than other areas because of the additional water sources, but it is a management problem that we have to consider. There is no question about that.

My feeling is, and like I said, I am a little hesitant on this, but there do not appear to be extensive riparian zones in the areas where livestock would graze, at least the areas that I have investigated, but they do have the potential to recover faster than surrounding areas.

Senator WALLOP. In the park, in an area like this where the grazing is done in the winter, would those riparian areas or in other areas grazed, be more likely to recover than less likely supposing the grazing took place in the summer?

Dr. BOWNS. The time that plants are affected least by grazing is during the dormant period which, of course, is during the wintertime in that area. During the growing season is the time plants are most susceptible, but this can be adjusted by adjusting stocking rates or the time that the animals are in there, but very definitely the dormant period, the winter period is when the plants are least susceptible to grazing.

Senator WALLOP. What about the land adjacent to Capitol Reef? Are you familiar with that? Could you evaluate the range status there generally?

Dr. BOWNS. It has been my opinion over many years in that area that there has been an improvement in those areas. Now here again you have to qualify that by site, but that would be my professional opinion at this time.

Senator WALLOP. Obviously anything has to be site qualified, and even within given allotments it depends a little bit on how the lessee manages it.

Dr. BOWNS. I believe the ranchers in that area are very sensitive to criticism of grazing, and therefore I feel like they are doing a good management job. They ask for advice on many occasions, and in my opinion are managing those ranges very well.

Senator WALLOP. Is BLM in the area pretty professional in the way in which they handle their charges?

Dr. BOWNS. I believe they are at the present time; yes.

Senator WALLOP. Did they have any actions that you are aware of, either within the park or adjacent to it, which minimize the effects of grazing?

Dr. BOWNS. Mr. Pendleton mentioned they are in the planning phase right now, I believe developing the environmental impact statement on grazing for that area, and at this time we don't know what the results of that will be.

Senator WALLOP. You made a statement as to the economic effect, and I think, Mr. Pace, you did, too, of losing those 4500 AUM both in Wayne and Garfield Counties.

The Park Service has another one which is a good deal more modest. They think that they would lose $31,000 based on their estimate, on current market value of range cattle, existing cattle uses, $33,000 based on actual cattle grazing within the park and the use of BLM's $11 per AUM estimate, and the study would come to $55,000 total annual economic impact.

Would you just generally care to comment?

Dr. BOWNS. Well, the figure that I used came from a study, if I can locate it—well, it might take too much time. This is a study at Colorado State specifically to evaluate the impacts of reduced Federal grazing, and our range economists at Utah State University indicate that we would have no problem applying those figures to Utah. We have a much larger proportion of Federal lands in Utah than Colorado does, so those are the figures that we have used, and this includes a multiplier effect on a number of things, but that study is entitled, "Impact of Federal Grazing on the Economy of Colorado," studying the range sites by the department at Colorado State University.

Senator WALLOP. I want to thank you all three for coming here this morning. It is a long trip, but it is important I think that we have the testimony of those who have, who live with these decisions as part of our reference. Thank you very much, and now Mr. Russell Butcher who is the Southwest Regional Director of National Parks and Conservation Association from Cottonwood, Ariz.

STATEMENT OF RUSSELL D. BUTCHER, SOUTHWEST REGIONAL DIRECTOR, NATIONAL PARKS AND CONSERVATION ASSOCIATION

Mr. BUTCHER. Thank you, Mr. Chairman. It is a pleasure to come back also from the Southwest where the weather is beautiful and spring has sprung, as well as here.

My name is Russ Butcher. I am a southwest regional representative based in Cottonwood, Ariz., for the National Parks and Conservation association.

Our private, nonprofit, Washington, D.C. based membership organization which publishes "National Parks Magazine" has devoted its efforts for the past 63 years to the protection and public understanding of the national park system.

For purposes of this hearing, I have been asked to speak also on behalf of the Wilderness Society.

The National Parks and Conservation Association is deeply concerned by current proposals embodied in S. 1872 to substantially extend the congressionally authorized phaseout of livestock grazing within Capitol Reef National Park in southern Utah. Our concern rests upon the serious impact grazing continues to inflict upon the fragile ecology of this absolutely stunningly magnificent national park.

First, let me offer a few relevant statistics. While grazing allotments entirely within and overlapping into the Capitol Reef National Park total some 718,000 acres, only 173,000 acres lie within the park. Of this total, 142,000 acres are actually legally subject to

grazing, the balance being in nonused permits, and of this total, only about 110,000 acres are in fact accessible to livestock, so we are concerned here with about 15 percent of the overall grazing allotment acreage relating directly or indirectly to Capitol Reef National Park.

Furthermore, there are 26 ranchers who are actually exercising a total of 31 permits by grazing their cattle within the park. Several of these, incidentally, make virtually no use of parklands, but of these 31 permits, there are only 13 exercised permits to accessible parklands that are currently scheduled to be phased out later this year.

Out of all the exercized grazing permits, over 1,000 animal unit months which is the bulk of the AUM's are scheduled to continue under the present phaseout schedule for yet another decade, and finally regarding the need to fence Capitol Reef National Park, under the current phaseout scheme, the estimate that 150 miles of fencing costing upward of $600,000, is grossly exaggerated and misleading and we have had other figures here this morning. Because many of the areas of the park are in fact inaccessible to livestock by nature of the topography itself, only somewhere between 25 and 30 miles of boundary fence would be needed, and that would cost—I had revised figures handed to me this morning—revised upward to around $120,000.

I think these statistics are crucial to keep in mind because those who are arguing for an extended grazing phaseout may use larger and in our judgment less relevant statistics to try to make their position appear more compelling.

Mr. Chairman, others have alleged that, "There appears to be no inherent resource conflict between scenic or scientific values at the park and livestock grazing." From our own firsthand examination of Capitol Reef, we find this simply untrue. Among the inherent resource conflicts between grazing and the park's scenic and ecological quality are the following.

One, water quality of Capitol Reef National Park's few streams and ponds is polluted by fecal and nitrogenous matter from cattle. This seriously degraded condition impairs an absolutely vital resource for the park's native wildlife and makes it dangerous for use by park visitors. This inherent resource conflict between livestock and the park is clear and irrefutable.

Two, soil quality where grazing occurs within the park is impaired by livestock trampling, trailing, and disruption of the natural soil crust. These impacts have resulted in making the fragile arid land soils extremely vulnerable to wind and water-caused soil erosion. This phenomenon is most obvious along cattle trails, around water places, and in shady areas beneath trees, cliff overhangs, and within riparian woodlands. Reduced ground cover, as with native grasses that formerly carpeted much of the land in this region, further contributes to persistent soil erosion. It is clear and irefutable from even a cursory examination of such grazed, railed and yarded areas that there is a serious on-going inherent resource conflict between livestock and the park's ecology.

Three, plantlife within the grazed areas of the park has undergone significant changes in the species makeup and quality of

floral ecosystems. Exotic species such as the prolific Prickly Saltwort or Russian thistle and other disturbed ground indicatores, have invaded substantial areas of the park, while original native species such as the palatable and beautiful grama grasses have been virtually eliminated in areas.

Riparian habitat has been especially hard hit, and there is special concern for the welfare of a number of threatened and endangered plant species in the park. There is simply no way to deny that livestock grazing inflicts a measurable and significant impact upon the park's floral ecosystems.

Four, wildlife is impaired by competition with livestock as the result of both degraded water sources and loss of important native species of plantlife. A long-planned reintroduction of the stately desert bighorn sheep into Capitol Reef National Park must unfortunately await the long- anticipated removal of livestock simply because of the conflict between cattle and bighorns that is known to occur, to the detriment of the bighorns.

Five, archaeological sites abound throughout the park. Most of these are fragile remains at the surface of the ground. Livestock trampling cannot help but impact many irreplaceable cultural resources within the area, and once disturbed and disrupted, these treasures are of little value to the archaeologist.

Six, and perhaps most important of all, visitor use and inspirational enjoyment of Capitol Reef National Park is also impaired and impacted by livestock grazing, most of all by the fecal-fouled streams and ponds that pose a danger to human health. This is an arid region where the presence or absence of potable water can clearly make the difference between life and death. Some of the most pleasant places for visitors to pause and relax, as along shady riparian woodlands, beneath trees and cliffs, and within shallow caves, are often the very same areas most heavily degraded by trampling of the soil, elimination of vegetation, and impacted with piles of manure, all resulting from cattle yarding.

Livestock operations may well be part of the historic and rather romantic notion of the old west that Senator Garn says tourists seem to delight in, but such operations and impacts are clearly not what visitors come to expect in a great national park.

The National Park Service's rangeland assessement, supported by Bureau of Land Management range scientists, is that Capitol Reef National Park's range condition is substantially impaired and that the condition of its vegetation is rated largely as fair to poor, and declining. Such an evaluation is bad news for BLM multiple use rangelands. It is unacceptable and outrageous for a national park.

I think it is relevant to point out in the vast grasslands of East Africa and Kenya and elsewhere until cattle were introduced into those arid lands, the grasslands were rich and lush, and the native ungulate species had virtually no negative impact upon that floral ecosystem.

In areas now where cattle have been introduced, the same thing is occurring in East Africa that has occurred, is occurring in the arid lands of the Southwest. That is, degradation, declining condition of the rangelands, and soil conditions. In fact, whether or not

the present grazing phaseout is extended, the current system of animal unit months eventually needs adjusting inside the park to accommodate both wildlife and improved range conditions.

The National Park Service, furthermore, should take charge of range management on its own land. Incidentally, the long-term grazing, if grazing were to be extended, and it would be extended from what I gather for 50 years or perhaps almost indefinitely, under the proposal in the current proposed legislation, would in our judgment require more fencing for the park in order for proper resource management inside the park to be carried out in the long term.

To help meet the need for better range protection in the park and to help mitigate any economic hardship that the phaseout plan may be causing—and let me add we are not unmindful of the point of view expressed by the ranchers here—we urge that there are enough grazing allotments in nonuse status outside the park within the Henry Mountains resource area of the BLM to enable that agency to make a redistribution of AUM's.

Now one of the BLM people here today has indicated that in fact they couldn't do that. Well, I think it is a matter of their agency's establishing that priority if that were to be decided to be the approach to be taken.

Senator WALLOP. I will just say that if you want the kind of consequence that you described in Africa and you would just follow the track you have just suggested to this committee, that if their priority is to do it, they would just add to the AUM where they don't exist, that doesn't seem to make sense either.

Mr. BUTCHER. Maybe I miss your point. What I am saying is that the AUM's on nonuse permit areas in fact to our understanding do exist. It is a matter of the agency setting the priority to utilize the AUM's that are not in use at this time, and those are, incidentally, within the allotments that overlap into the park. I am not talking about some way-off area.

Senator WALLOP. You have heard them testify they don't exist. I don't know where you go for the information. They are the people who work on the grounds.

Mr. BUTCHER. This comes from BLM through the Park Service and we understand there are in fact——

Senator WALLOP. With all due respect, in taking it from the Park Service you are taking it from people who have a desire to see this end. The Park Service is not qualified to make BLM judgments. I don't think they profess to in public at least.

Mr. BUTCHER. I grant you that, but to me if the Park Service indicates, if the Park Service——

Senator WALLOP. Maybe you could provide for the record any proof that you have that these units exist.

Mr. BUTCHER. I think that it would be important to have research into this matter because there obviously are, there is information coming to us via the Park Service, but nevertheless we assume that it is reliable information from the BLM.

Senator WALLOP. If you will provide it for the record?

Mr. BUTCHER. That would be a good idea because we feel strongly that if in fact there are available unassigned AUM's in the nonuse status, that we should look into the matter, and perhaps reducing

the burden of this phaseout upon the ranchers and make the exchanges, and whether or not there is a grazing phaseout extension, we also urge that the National Park Service be authorized to carry out a thorough range study within Capitol Reef. Such a study we are told would cost somewhere around $75,000 at 80 cents an acre.

It is true, as Senator Garn has pointed out, that the National Park Act of 1916 provides that, "The privilege to graze livestock" within a national park may be granted when such use is not detrimental to the primary purpose for which such park was created, but that is the bottom line at Capitol Reef National Park. Such privileged use is detrimental to the primary purpose of the park. The 1916 act clearly explains that this primary purpose for a national park is, "To conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."

There is where the rub comes on this issue, for livestock grazing in our judgment is clearly and obviously a privileged activity that is not leaving the delicate park ecology unimpaired. It is degrading that ecology and the U.S. Congress acted correctly and with great foresight back in 1971 by providing the present phaseout schedule.

Just a brief word about comparisons between Capitol Reef and Grand Teton National Park—it is argued by proponents of phaseout extension plans that the Teton grazing scheme should be applied at Capitol Reef. First, Grand Teton's grazing arrangement is the exception, not the rule, in providing for grazing phaseouts in national park areas, and second, there is an enormous difference between the far more lush conditions of northwestern Wyoming and the extremely arid, semi-desert and desert conditions which prevail in southern Utah.

While the National Park Service scientists point out that livestock grazing within an area of Grand Teton has a detrimental impact on that park's ecology, that impact is far less apparent than is the grazing impact upon Capitol Reef. In no way should Grand Teton be used as the model or the excuse for extending grazing at Capitol Reef.

One footnote to the Grand Teton situation—the National Park Service at Grand Teton has the grazing management authority.

Finally, instead, the real models for Capitol Reef should be Big Bend National Park in west Texas, and Organ Pipe Cactus National Monument in southern Arizona where livestock grazing has been eliminated and the past abuses of the fragile desert land have ended.

Let us follow the responsible examples of Big Bend and Organ Pipe Cactus where the fragile ecosystems are healing back. Let us now proceed with the phaseout of livestock at Capitol Reef so that it, too, may be restored and enhanced to its natural grandeur. As one of America's Crown Jewels, Capitol Reef deserves nothing less.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Butcher follows:]

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April 14, 1982

GRAZING PHASE-OUT

AT

CAPITOL REEF NATIONAL PARK, UTAH

My name is Russ Butcher. I am the Southwest Regional Representative, based in Cottonwood, Arizona, for the National Parks & Conservation Association. Our private nonprofit, Washington, D.C.-based membership organization, which publishes NATIONAL PARKS MAGAZINE, has devoted its efforts for the past 63 years to the protection and public understanding of the National Park System.

National Parks & Conservation Association is deeply concerned by current proposals to substantially extend the Congressionally authorized phase-out of livestock grazing within Capitol Reef National Park in southern Utah (Public Law 92-207 of December 1971). Our concern rests upon the serious impacts grazing continues to inflict upon the fragile ecology of this absolutely stunningly magnificent national park.

First, let me offer a few relevant statistics: while grazing allotments entirely within and overlapping into Capitol Reef National Park total some 718,000 acres, only 173,000 acres lie within the park. Of this total, 142,000 acres are actually

legally subject to grazing--the balance being in non-used permits. And of this total, only about 110,000 acres are in fact accessible to livestock. So, we are concerned here with about 13 percent of the overall grazing allotment acreage relating directly or indirectly to Capitol Reef National Park.

Furthermore, there are 26 ranchers who are actually exercising a total of 31 permits by grazing their cattle within the park. (Several of these, incidentally, make virtually no use of park lands.) Of these 31 permits, there are only 13 exercised permits to accessible park lands that are currently scheduled to be phased out later this year.

Out of all the exercised grazing permits, over 1,000 animal-unit-months--which is the bulk of the AUM's--are scheduled to continue under the present phase-out schedule for yet another decade.

And finally, regarding the need to fence Capitol Reef National Park, under the current phase-out scheme, the estimate that 150 miles of fencing, costing upwards of $600,000, is grossly exaggerated and misleading. Because many areas of the park are in fact inaccessible to livestock by nature of the topography, only 25-30 miles of boundary fence at most would be required, costing around $60,000.

These statistics are crucial to keep in mind, because those who are arguing for an extended grazing phase-out may use larger and less relevant statistics to try to make their position appear more compelling.

* * *

Senator E.J. (Jake) Garn has alleged (Nov. 19, 1981, Congressional Record) that "there appears to be no inherent resource conflict between scenic or scientific values at the park and livestock grazing." From our own firsthand examination

of Capitol Reef, we find this simply untrue. Among the inherent resource conflicts between grazing and the park's scenic and ecological quality are the following:

(1) Water quality of Capitol Reef National Park's few streams and ponds is polluted by fecal and nitrogenous matter from cattle. This seriously degraded condition impairs an absolutely vital resource for the park's native wildlife and makes it dangerous for use by park visitors. This inherent resource conflict between livestock and the park is clear and irrefutable.

(2) Soil quality where grazing occurs within the park is impaired by livestock trampling, trailing, and disruption of the natural soil crust. These impacts have resulted in making the fragile aridland soils extremely vulnerable to wind- and water-caused soil erosion. This phenomenon is most obvious along cattle trails, around watering places, and in shady areas beneath trees, cliff overhangs, and within riparian woodlands. Reduced ground cover--as with native grasses that formerly carpeted much of the land in this region--further contributes to persistent soil erosion. It is clear and irrefutable from even a cursory examination of such grazed, trailed, and yarded areas that there is a serious on-going inherent resource conflict between livestock and the park's ecology.

(3) Plantlife within the grazed areas of the park has undergone significant changes in the species makeup and quality of floral ecosystems. Exotic species, such as the prolific Prickly Saltwort or Russian Thistle (Salsola Kali tenuifolia), and other disturbed-ground indicators,

have invaded substantial areas of the park; while original native species, such as the palatable and beautiful grama grasses (Bouteloua species), have been virtually eliminated in those areas. Riparian habitat has been especially hard hit. And there is special concern for the welfare of a number of threatened and endangered plant species in the park. (Wright Fishhook Cactus (Sclerocactus wrightiae); Winkler Pincushion Cactus (Pediocactus winkleri); Ruth Milkweed (Asclepias ruthiae); Last Chance Townsendia (Townsendia aprica); Harrison Milkvetch (Astragalus harrisonii); and Rabbit Valley Gilia (Gilia caespitosa), for example.) There is no way to deny that livestock grazing inflicts a measurable and significant impact upon the park's floral ecosystems.

(4) Wildlife is impaired by competition with livestock as the result of both degraded water sources and loss of important native species of plantlife. A long-planned re-introduction of the stately desert bighorn sheep into Capitol Reef National Park must unfortunately await the long-anticipated removal of livestock simply because of the conflict between cattle and bighorns that is known to occur--to the detriment of the bighorns.

(5) Archaeological sites abound throughout the park. Most of these are fragile remains at the surface of the ground. Livestock trampling cannot help but impact many irreplaceable cultural resources within the area; and once disturbed and disrupted, these treasures are of little value to the archaeologist.

(6) Visitor use and inspirational enjoyment of Capitol Reef National Park is also impaired and impacted by livestock grazing--most of all by the fecal-fouled

> streams and ponds that pose a danger to human health--this in an arid region where the presence or absence of potable water can clearly make the difference between life and death. Some of the most pleasant places for visitors to pause and relax--as along shady riparian woodlands, beneath trees and cliffs, and within shallow caves--are often the very same areas most heavily degraded by trampling of the soil, elimination of vegetation, and impacted with piles of manure--all resulting from cattle yarding. Livestock operations may well be part of the historic and rather romantic notion of the old West that Senator Garn says tourists "seem to delight in." But such operations and impacts are clearly not what visitors come to expect in a great national park.

The National Park Service's rangeland assessment, supported by Bureau of Land Management range scientists, is that Capitol Reef National Park's range condition is substantially impaired; and that the condition of its vegetation is rated largely as fair-to-poor, and declining. Such an evaluation is bad news for BLM multiple-use rangelands; it is unacceptible and outrageous for a national park.

In fact, whether or not the present grazing phase-out is extended, the current system of animal-unit-months urgently needs adjusting to accommodate both wildlife and improved range conditions within the park. The National Park Service, furthermore, should take charge of range management on its lands.

To help meet the need for better range protection in the park and to help mitigate any economic hardship that the phase-out plan may be causing, we ~~also~~ urge that there are enough grazing allotments in non-use status outside the park within the Henry Mountains region to enable a re-distribution of AUM's. There are, according to the BLM, some 3,000 AUM's available that could and should be used to ease the impacts of phase-out from the park.

And whether or not there is a grazing phase-out extension, we also urge that the National Park Service be authorized to carry out a range study within Capitol Reef. Such a study is estimated to cost $75,000 (80 cents/acre).

It is true, as Senator Garn has pointed out, that the National Park Act of 1916 provides that "the privilege to graze live stock" within a national park may be granted when "such use is not detrimental to the primary purpose for which such park...was created." [emphases added]

But that is the bottom line at Capitol Reef National Park. Such privileged use is detrimental to the primary purpose of the park. The 1916 Act clearly explains that this primary purpose for a national park is "to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." [emphasis added]

There's where the rub comes on this issue--for livestock grazing is clearly and obviously a privileged activity that is not leaving the delicate park ecology unimpaired. It is degrading that ecology, and the U.S. Congress acted correctly and with great foresight back in 1971 by providing the present phase-out schedule.

Just a brief word about comparisons between Capitol Reef and Grand Teton national parks: it is argued by proponents of phase-out extension plans that the Teton grazing scheme should be applied at Capitol Reef. First, Grand Teton's grazing arrangement is the exception, not the rule in providing for grazing phase-outs. And second, there is an enormous difference between the far more lush conditions of northwestern Wyoming and the extremely arid semi-desert/desert conditions which prevail in southern Utah. While National Park Service scientists point out that livestock grazing within an area of Grand Teton has a detrimental impact upon the park's ecology, that impact is far less apparent than is the grazing impact upon Capitol Reef. In no way should Grand Teton be used as the model or excuse for extending grazing at Capitol Reef.

7-NPCA on Capitol Reef grazing

Instead, the real models for Capitol Reef should be Big Bend National Park, in west Texas, and Organ Pipe Cactus National Monument, in southern Arizona, where livestock grazing has been eliminated and the past abuses of the fragile desert lands have ended. Let us follow the responsible examples of Big Bend and Organ Pipe Cactus, where the fragile ecosystems are healing back. Let us proceed now with the phase-out of livestock at Capitol Reef so that it, too, may be restored and enhanced to its natural grandeur. As one of America's "Crown Jewels," Capitol Reef deserves nothing less.

Respectfully submitted,

Russell D. Butcher
Southwest Regional Representative
National Parks & Conservation Association

Senator WALLOP. Thank you, Mr. Butcher. Everybody is entitled to his own opinion, but not his own set of facts. I find some of what you say disturbing because we have heard testimony here by professionals within the Park Service and BLM that is directly in contrast with what you have said, not the least of which is what they have all testified that there is no study which indicates the kind of definite damage——

Mr. BUTCHER. Of course, as I indicated, we are urging that a very thorough study be carried on.

Senator WALLOP. You speak as though it has been made, and the experts agree.

Mr. BUTCHER. A lot of what I am basing my opinion on for the association is firsthand examination.

Senator WALLOP. Where is this national park rangeland assessment which is supported by the Bureau of Land Management scientists which says Capitol Reef National Park range condition is substantially impaired?

Mr. BUTCHER. I understand from the Park Service that there are BLM range scientists who have given their opinion as to the condition. This is not a full-blown range analysis or assessment.

Senator WALLOP. You say that it is. You say that the National Park Service rangeland assessment which is supported by Bureau of Land Management range scientists. What is it that they are supporting if there is not such an assessment?

Mr. BUTCHER. Their assessment is based upon their resource management experts.

Senator WALLOP. You heard them say this morning it doesn't exist.

Mr. BUTCHER. Mr. Chairman, there have not been funds, there has not been an authorization for——

Senator WALLOP. I don't quarrel with that, but the fact is they have said it does not exist and you say that it does.

Mr. BUTCHER. Let me distinguish, try to separate the two. There is a need for a thorough study.

Senator WALLOP. Agreed; we can agree to that.

Mr. BUTCHER. What has been done is for their resource management folks to go on the land to examine the conditions as I in effect have done, too, to examine the conditions and see what is visible, what obvious impacts they can see.

Now let me say that if you were on the land, if we took you to Hall's Creek, for instance, it would not take a large-scale, expensive Government survey to find out that yes, there are impacts in Hall's Creek in the drainage system, the riparian areas, and in the water system. These are the kinds of things that you can see just by going there and looking at the plantlife, looking at the soil conditions and the water quality.

Senator WALLOP. Superintendent, do you know of the existence of such a study?

Mr. HAMBLY. Mr. Chairman, Don can probably tell you more about this, but they have completed a preliminary study of the range conditions in the Henry Mountain planning unit.

Senator WALLOP. But in the park?

Mr. HAMBLY. No. It is outside the park. They have not done studies in the park, again I believe because of the chance of phasing out the grazing.

Mr. PENDLETON. Mr. Chairman, we didn't conduct inventory within the park because the law said it was going to phaseout. We do have some long-term trend studies going back as far as 15 years to 1967 both inside and outside the park, so the conditions have been static at least during that period of time.

Senator WALLOP. Thank you very much. I appreciate it. Well, this well-known conflict between cattle and Bighorns is an interesting piece of knowledge to me. In Wyoming the cattle and Bighorn exist quite comfortably. Bighorns and sheep have a problem, but cattle and Bighorns, I don't know of anybody who would say that there is a major problem.

Mr. BUTCHER. Oh, if I may disagree——

Senator WALLOP. We have perhaps the largest and most vital Bighorn sheep population in the United States in Wyoming and throughout the range of it cattle and Bighorn sheep exist, coexist.

Mr. BUTCHER. My understanding of the issue here is there quite a difference between the Rocky Mountain Bighorn and as I have indicated in my testimony, the desert Bighorn. The ecological situation is far different. For instance, in southern California in the desert ranges in that arid part of the country, the impact of grazing of livestock upon the populations of desert Bighorn is very, very direct and very measurable, and in fact, BLM in California is working on agreements now to pull cattle back out of areas that are particularly sensitive for the desert Bighorn populations. There is absolutely no question. The scientists who are familiar with the desert Bighorn ecology are quite clear on this point that there is an undeniable conflict.

Senator WALLOP. Well, in badly operated situations, I don't quarrel with that. Let me ask you this. You say such operations are clearly not what visitors have come to expect in a great national park.

Why not? I mean part of the parks do exist to preserve historical uses, historical patterns of use and other things. It is not that

every park ought to smell like a New York City salon or a Phoenix salon. I mean, the honest-to-God truth, other than the fact that you see a few people having what you call a privileged use, what is it that is troublesome given Dr. Bowns' opinion, and I understand you don't agree with that, but supposing you did agree with Dr. Bowns that these ranges are static or in a situation of improvement, supposing you did agree with that. Why is it that they should not see livestock operations?

Mr. BUTCHER. OK. If I may take your last question first, if in fact there were no ecological, negative ecological impact upon the national park—the plants, the soil, the water—it is very likely that we would have minimal complaints, maybe no complaints. Other than the fact that the livestock, the cattle, are not part of the native wildlife, if we couldn't demonstrate a negative, harmful impact upon the national park ecology, certainly we would not be taking the strong stand that we are now.

Senator WALLOP. There is no requirement that they be part of native wildlife in the national park system.

Mr. BUTCHER. To answer the first question you put to me, why in a national park no grazing, certainly it is true as indicated by the National Park Guide that national parks exist to preserve and enhance if possible the natural ecology, the natural systems of flora and fauna, to protect those ecosystems, and there is simply no debate. Livestock, burros, all these introduced animals are not part of the native Americana fauna. There is just no way to get around that, and the national parks represent what, less than 2 percent of the land area of America in which it is our hope that we can retain that very special thing that is unique, the native balances of flora and fauna, and even in the wilderness areas of the national forest grazing is allowed, so we are talking about a tiny percentage of the American land.

Senator WALLOP. I don't quarrel with percentages and don't quarrel in some ways with what you say, but the fact is if five generations of grazing have existed, which they have, at the time this was made a national park, and you have a national treasure, one might make the argument that of and by itself is not a detriment to the purposes for which it was set aside, so I thank you for coming here.

Mr. BUTCHER. Thank you, sir.

Senator WALLOP. Now, Mr. Hutchison, if we could get to S. 2218, and if I were about to go drill for gas in a national park—I couldn't resist that. I'm sorry. At last I finally found somebody who proposed that. We have been told that everybody in the world is about to drill from one end of the national park system to the other.

STATEMENT OF IRA J. HUTCHISON, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. HUTCHISON. Mr. Chairman, you have some direction from the chairman, in terms of the companion testimony, of the Gateway Advisory Committee. Do you want that included?

Mr. Chairman, I remain appreciative of the opportunity to testify on behalf of the Department of the Interior, in this case in support of S. 2218, a bill to provide for the development and improvement of the

recreational facilities and programs of Gateway National Recreation Area through the use of funds obtained from the development of methane gas resources within the Fountain Avenue landfill site by the city of New York.

I would want to re-emphasize that we are speaking of Gateway National Recreation Area as opposed to the national park which does represent some degree of difference.

The bill would convey to the city of New York all rights to the methane gas resulting from waste decomposition at the Fountain Avenue landfill site. The landfill is within the Jamaica Bay Unit of Gateway National Recreation Area.

Gateway National Recreation Area consists of approximately 26,172 acres in the States of New York and New Jersey, and includes uplands, beaches, and marshlands. In 1981, recreational visits to Gateway were approximately 7,381,000.

The recreation area was established by the Act of October 27, 1972, Public Law 92-592, and in March of 1974, the city of New York donated the Fountain Avenue landfill site to the United States as an addition to the recreation area. The site has been used as a landfill since about 1965, and under the terms of the donation, the city reserved the right to continue using the site for landfill purposes through December, 1975. So long as the site is used as a landfill, it is not available for public recreational development.

The landfill activities and the escaping methane gas generated by decomposition of the wastes create a fire hazard and make the site unsuitable for public use at this time. In order to reduce that hazard and to utilize this valuable energy resource and develop the area's recreational potential, in 1979 the city of New York requested the right to produce the methane gas at the Fountain Avenue site. Recovery of the gas was not contemplated in the instruments by which the city donated the site to the United States, and the Department of the Interior solicitor's office has advised us that the gas belongs to the United States. Since the existing authority to dispose of methane gas within the recreation area is unclear, if it exists at all, we believe special legislation would be appropriate to accommodate the city's request.

Senator D'Amato introduced S. 2218 for that purpose. There are several aspects of the bill that should be specifically mentioned.

First, it is a self-executing conveyance of rights to the methane gas as opposed to a competitive bidding procedure. We have no objection to such a conveyance to the city in this instance since the source of the gas is refuse from the city, and the United States acquired the site from the city at no cost.

Second, the bill makes the conveyance subject to payment to the United States of 12 percent of any revenue received by the city as a result of production. We believe the 12-percent figure is acceptable considering the source of the natural gas and the fact that any rights the United States has to this gas arose because of New York City's donation of this property to the National Park Service. We expect that the city will diligently seek the highest payments for the gas recovered so that both the city and the United States will receive fair value for the production. The third aspect of the bill that bears special mention is the provision crediting revenues received by the United States from the city to appropriations for

Gateway National Recreation Area. If this provision were not in the bill, the revenues would be required to be paid into miscellaneous receipts in the Treasury and would not be available for Gateway programs unless and until they were appropriated for that purpose. For fiscal year 1982, the operation and maintenance budget for Gateway is $10,343,000. Depending on the value of the gas, substantial program needs can be met at Gateway from the United States' share of the revenues from gas development.

Finally, although estimates have been made regarding the value of this methane gas—for example, Senator D'Amato has indicated that the landfill could produce the equivalent of 400,000 to 600,000 barrels of oil annually—resource estimates of this nature are speculative at best. However, regardless of the actual amount involved, royalties on this production will represent a significant net gain to the United States and an important source of development funds for the Gateway National Recreation Area.

We would also note that at the present time the Federal Government is receiving no revenues from this resource as the gas is now being wasted into the atmosphere.

The Department would defer to the city of New York concerning its plans for contracting with a producer if the gas were conveyed to the city by this legislation. We agree with the city, however, that early action on the bill is essential to obtain the most revenue, again since the gas is escaping in large quantities every day.

We suggest two amendments. At the beginning of the subsection (i) we suggest the phrase, "notwithstanding the provisions of subsection (a) of this section" be added. This technical amendment is necessary to clarify possible inconsistencies.

We also recommend that the following be inserted before the last sentence of the subsection (i).

> The Secretary shall grant to the city, its lessee or assignee, all rights-of-way and other permits necessary from the Department of the Interior to extract and transport the gas from the site: Provided, That the rights-of-way and other permits shall provide for reasonable restoration of the site, including removal of any processing or storage facilities used in the disposal, development or extraction of the gas, access by the Secretary to the site for safety and other recreation area purposes, and such other reasonable conditions as the Secretary deems necessary to further the purposes of the recreation area.

This amendment requires the Secretary to grant any necessary rights-of-way or other permits necessary for recovery of the gas and specifies that the permits will provide for reasonable restoration of the site and such other conditions as the Secretary deems appropriate or necessary.

Mr. Chairman, that concludes my prepared statement. I will be pleased to answer any questions that you may have.

[The prepared statement of Mr. Hutchison follows:]

STATEMENT OF IRA J. HUTCHINSON, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE ENERGY SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER ON S. 2218, A BILL "TO PROVIDE FOR THE DEVELOPMENT AND IMPROVEMENT OF THE RECREATION FACILITIES AND PROGRAMS OF GATEWAY NATIONAL RECREATION AREA THROUGH THE USE OF FUNDS OBTAINED FROM THE DEVELOPMENT OF METHANE GAS RESOURCES WITHIN THE FOUNTAIN AVENUE LANDFILL SITE BY THE CITY OF NEW YORK."

April 14, 1982

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to appear before you today to testify on behalf of the Department of the Interior in support of S. 2218, a bill "To provide for the development and improvement of the recreation facilities and programs of Gateway National Recreation Area through the use of funds obtained from the development of methane gas resources within the Fountain Avenue Landfill Site by the City of New York."

The bill would convey to the City of New York all rights to the methane gas resulting from waste decomposition at the Fountain Avenue Landfill Site. The landfill is within the Jamaica Bay Unit of Gateway National Recreation Area.

Gateway National Recreation Area consists of approximately 26,172 acres in the States of New York and New Jersey, including uplands, beaches and marshlands. In 1981, approximately 7,381,000 recreational visits were recorded at the recreation area.

The recreation area was established by the Act of October 27, 1972 (Public Law 92-592). In March of 1974, the City of New York donated the Fountain Avenue Landfill Site to the United States as an addition to the recreation area. The site has been used as a landfill since about 1965 and, under the terms of the donation, the city reserved the right to continue using the site for landfill purposes through

December 1985. So long as the site is used as a landfill, it is not available for public recreation development. The landfill activities and the escaping methane gas, generated by decomposition of the wastes, create a fire hazard and make the site unsuitable for public use at this time.

In order to reduce that hazard, utilize this valuable energy resource, and develop the area's recreational potential, in 1979, the City of New York requested the right to produce the methane gas at the Fountain Avenue site. Recovery of the gas was not contemplated in the instruments by which the city donated the site to the United States, and the Department of the Interior Solicitor's Office has advised us that the gas belongs to the United States. Since the existing authority to dispose of methane gas within the recreation area is unclear, if it exists at all, we believe special legislation would be appropriate to accommodate the city's request. Senator D'Amato introduced S. 2218 for that purpose.

There are several aspects of the bill that should be specifically mentioned. First, it is a self-executing conveyance of rights to the methane gas, as opposed to a competitive bidding procedure. We have no objection to such a conveyance to the city in this instance, since the source of the gas is refuse from the city and the United States acquired the site from the city at no cost.

Second, the bill makes the conveyance subject to payment to the United States of 12 percent of any revenue received by the city as a result of production. We believe the 12 percent figure is acceptable, considering the source of the natural gas and the fact that any rights the United States has to this gas arose because of New York City's donation of this property to the National Park Service. We expect

that the city will diligently seek the highest payments for the gas recovered, so that both the city and the United States will receive fair value for the production.

The third aspect of the bill that bears special mention is the provision crediting revenues received by the United States from the city to appropriations for Gateway National Recreation Area. If this provision were not in the bill, the revenues would be required to be paid into miscellaneous receipts in the Treasury and would not be available for Gateway programs unless and until they were appropriated for that purpose. For fiscal year 1982, the operation and maintenance budget for Gateway is $10,343,000. Depending on the value of the gas, substantial program needs can be met at Gateway from the United States' share of the revenues from gas development.

Finally, although estimates have been made regarding the value of this methane gas (for example, Senator D'Amato has indicated that the landfill could produce the equivalent of 400,000 - 600,000 barrels of oil annually), resource estimates of this nature are speculative, at best. However, regardless of the actual amount involved, royalties on this production will represent a significant net gain to the United States and an important source of development funds for the Gateway National Recreation Area. We would also note that, at the present time, the Federal Government is receiving no revenues from this resource, as the gas is now being wasted into the atmosphere.

The Department would defer to the City of New York concerning its plans for contracting with a producer if the gas were conveyed to the city by this legislation.

We agree with the city, however, that early action on the bill is essential to obtain the most revenue, since the gas is escaping in large quantities every day.

We suggest two amendments. At the beginning of the new subsection (2) we suggest the phrase "notwithstanding the provisions of subsection (a) of this section" be added. This technical amendment is necessary to clarify possible inconsistencies.

We also recommend that the following be inserted before the last sentence of the new subsection (i):

> The Secretary shall grant to the City, its lessee or assignee, all rights-of-way and other permits necessary from the Department of the Interior to extract and transport the gas from the site: Provided, That the rights-of-way and other permits shall provide for reasonable restoration of the site, including removal of any processing or storage facilities used in the disposal, development or extraction of the gas, access by the Secretary to the site for safety and other recreation area purposes, and such other reasonable conditions as the Secretary deems necessary to further the purposes of the recreation area.

This amendment requires the Secretary to grant any necessary rights-of-way or other permits necessary for recovery of the gas and specifies that the permits will provide for reasonable restoration of the site and such other conditions as the Secretary deems appropriate.

Mr. Chairman, that concludes my prepared statement and I will be pleased to answer any questions you or the members of the subcommittee may have.

Senator WALLOP. I appreciate your testimony here, and all lightheartedness aside, this does seem like a pretty good way to approach the use of something of benefit to the country and of mutual benefit both to the Park Service and the city of New York.

We appreciate your testimony on this this morning. I don't believe that we have any specific questions at the moment. We may have some for the record, but we are even by your estimation talking about a fairly substantial potential in all of that. I wish we had more that we could do something with within the system of recreation areas and parks to achieve this kind of result.

I appreciate it very much. Thank you, sir.

Mr. HUTCHISON. Sir, with your permission, I will move to the Gateway.

Mr. Chairman, thank you for the opportunity. S. 2218 and the House-passed bill are identical bills which would extend the term of the Gateway National Recreation Area Advisory Commission 10 additional years, or until October 27, 1982.

Mr. Chairman, we have no objection to the enactment of this legislation. I found as a superintendent at Gateway and since being in the Washington office, that the Commission has indeed been of assistance, a valuable source of advice and counsel in the management and development of the Gateway National Recreation Area. Its members represent both the large cities and small communities of the greater New York area. They are representatives of a broad range of professional experience, corporate business, law, accounting, publishing, urban recreation, social work, education, among others.

The result is that in dealing with the problems confronting Gateway, the managers of that recreation area have benefited from the diversity of useful ideas and insight that is available from the Commission. It has been a very strong voice in the community to the public on behalf of the Gateway's resources, and in fact the National Park Service admits the complexity of the greater New York region. In spite of that, that voice has been a clear, positive, and respected and independent one, and the expenses that have been ordinarily associated with this 15-member commission amount to approximately 6,000 per year.

Mr. Chairman, as you are aware, the provisions of the National Park Service's general authority act of 1970 and the Federal Advisory Committee Act would allow the Department to establish a similar commission without further legislation, yet since the Congress created the Gateway National Recreation Area Advisory Commission, we prefer and do indeed defer to the wishes of the Congress in this matter.

That completes my testimony. Thank you again, sir.

Senator WALLOP. Thank you. I know of no real problem to the extension of it. If there is one that shows up, I'll call you, but I doubt that there is, and I appreciate it very much, and I thank you for being here throughout these separate bills. It was helpful to have you testify in this manner.

Mr. HUTCHISON. Thank you, sir. Good morning to you.

Senator WALLOP. Karen Gerard, Deputy Mayor of economic policy and development, city of New York, accompanied by Robert Herzog, Director of Energy Office, city of New York, and Mr.

Abram Orwasher, corporation counsel of the Law Department of the city of New York.

I will insert a statement on S. 2218 from Senator Moynihan at this point.

[The prepared statement of Senator Moynihan follows:]

STATEMENT OF

SENATOR DANIEL PATRICK MOYNIHAN

BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATERS

April 14, 1982

Mr. Chairman, I would like to take this opportunity to express to this Subcommittee my support for S. 2218, a bill conveying to the City of New York all rights to the methane gas at the Fountain Avenue Sanitary Landfill in Brooklyn, New York. I am joining Senator D'Amato in co-sponsoring this legislation because it provides for an eminently practical and sensible way of making use of our indigenous energy resources. No federal appropriation is being requested and in fact a portion of the revenues from the methane recovery project authorized by this bill will go for the development and improvement of the Gateway National Recreation Area.

It is my sincere hope that after hearing testimony from today's witnesses this Subcommittee will concur with my judgment about the merits of the project that this bill will make possible and as a result choose to act favorably on the bill.

Under the terms of a 1974 agreement with the United States Department of Interior, the City of New York is to terminate landfilling operations at the Fountain Avenue site on December 31, 1985 and control of the site is then to be transferred to the National Park Service for inclusion in the Gateway National Recreation Area.

Events, however, have overtaken the original agreement. At that time no one anticipated that it would be practical to

extract methane gas from the landfill and sell it competitively as a source of energy.

Circumstances are different now. Imported oil was selling for $12 per barrel in 1974. It is some $32 per barrel today. Alternative, non-conventional sources of energy once thought to be too costly are competitive now.

Estimates are that each pound of municipal solid waste buried in a landfill produces approximately two cubic feet of landfill gas. About half the landfill gas is methane. Over time this gas disperses from the landfill. The alternative to uncontrolled dispersal is to draw the methane gas into wells and recover it. In the case of Fountain Avenue, recovery can yield the equivalent of 1700 barrels of oil per day.

S. 2218 will allow the City of New York to engage in a methane gas recovery project at Fountain Avenue. Similar projects have been successfully developed in California, Illinois and New Jersey. More specifically the City of New York is not without experience in this area. A methane recovery facility is in the final stages of completion at the Fresh Kills Landfill on Staten Island and should begin operation in June or July of this year. A second such project is in the testing stages at the Pelham Bay Landfill in the Bronx.

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The methane recovery project at Fountain Avenue will not prove to be inconsistent with the landfill's incorporation into the Gateway National Recreation Area. Once covered over, after December 1985, the landfill would not be suitable for active recreational use for some years. There is a land settling process that must run its course and the landfill gases must be allowed to dissipate. The City of New York points out that by the time the site would be ready for recreational use the methane gas recovery project will have been terminated.

What we are proposing therefore is a most rational and quite directly beneficial transitional use for the Fountain Avenue Landfill. It is not often that a 300 acre landfill, one that is currently taking in 8,000 tons of municipal solid waste each day, can be put to so many good and appropriate uses over so many years. I commend Mayor Koch for having the good sense to propose this project. Let us here in the Congress apply the same good sense and act favorably on this legislation.

STATEMENT OF KAREN N. GERARD, DEPUTY MAYOR OF ECONOMIC POLICY AND DEVELOPMENT, CITY OF NEW YORK, ACCOMPANIED BY ROBERT HERZOG, DIRECTOR OF ENERGY OFFICE, CITY OF NEW YORK; AND ABRAM ORWASHER, CORPORATION COUNSEL, LAW DEPARTMENT, CITY OF NEW YORK

Ms. GERARD. Mr. Chairman, members of the committee, I am Karen Gerard, Deputy Mayor of the city of New York for economic policy and development.

Accompanying me are Robert Herzog, director of the New York City Energy Office, and Abram Orwasher of the New York City Law Department. I am pleased to be able to testify before your committee today in support of the Senate bill 2218 which would enable the city of New York to sponsor a landfill gas recovery project at the Fountain Avenue landfill in Brooklyn.

I would like to take this opportunity to thank the members of the National Park Service for the help that they have given us in cooperation to bringing this project to this point.

Fountain Avenue is a New York City controlled and operated 300 acre sanitary landfull. In 1974, the land upon which the landfill is situated was deeded by the city to the Federal Government for eventual inclusion in the Gateway National Recreation Area. In that deed, the city reserved for itself the right to landfill at Fountain Avenue until December 31, 1985.

This legislation is designed to facilitate a landfill gas recovery project at Fountain Avenue by the city of New York, despite the December 30, 1985 closing of the landfill and its subsequent transfer to the National Park Service. S. 2218 will permit immediate testing for the project to begin which is the first step toward actual operation of such a facility. A project of this nature requires at least 20 years after completion of landfill operations.

Methane, the major component of the landfill gas, is generated in substantial quantities during this twenty-year period. The 20-year project life is necessary to justify economically the large capital investment required to accomplish the project.

Landfill gas is generated as a result of the natural anaerobic process of decomposition of municipal solid waste, or as we heard, garbage, in a land fill. The gas formed is about 50-percent methane which is usable as natural gas. I want to stress that if it is not captured, this natural gas dissipates into the atmosphere and is forever lost. Many of the specific characteristics of the landfill gas at Fountain Avenue and the economics involved are unknown at this time. Accordingly, the revenues which this project may generate and the overall economic viability of the state-of-the-art, emerging technology associated with this project, these things are speculative. Unknown factors include the actual volume of gas, how much gas there is, what the generation rate is, its extraction rate, and the quality of the methane component of the gas. Some of the unknowns about economics are the compatibility and need of potential customers, the capital financing costs of the project, and the price each kind of gas can command on the market.

All of these variables will dictate the ultimate use of the gas. As an example of the parameters involved, capital costs of upgrading the gas to pipeline quality are estimated in 1981 dollars at about

$20 million. A medium Btu as is projected would cost approximately $3.5 million, and the difference in the price of the gas is just about double. The pipeline quality gas today sells for $4.92 per million Btu, medium Btu, excuse me. Medium Btu gas sells for about $2.20 per million Btu.

There are three major development scenarios for landfill gas recovery projects—municipal development, private development, joint venture development. In either private or joint venture development the municipality receives a fee for supplying the landfill and the gas-producing municipal solid waste.

In the vast majority of the cases, the fee for municipalities has been 12½ percent of the gross project revenues. The Fountain Avenue project will follow the private development scenario, with the city negotiating with the private developer to develop the landfill.

In this instance, it is still difficult to assess the potential revenue the city will derive because of uncertainties associated with future market price from the landfill, and any offsets for capital expenditures, financing, and overhead costs which might be factored into the computation of the city's share of the proceeds. An estimate by a consultant to the New York State Energy Office concluded that Fountain Avenue will yield methane in the range varying between 2½ and 7 million standard cubic feet per day over the 20-year period.

His estimate assumes that methane generation will increase steadily in the years 1 to 5 after final placement of solid waste, peak in year 5, and then decrease through year 20. Extrapolating, these estimates project the gross revenue to range from 1.2 million to 3.4 million on an annual basis. Assuming a 12½-percent gross share for the city, the city's proceeds would range from 150,000 to 420,000 dollars a year. The city's analysis indicates a somewhat different range of revenues. Assuming that the economic and technical risk of the project as a whole is justified by the test results, the city projects potential city revenues for a period of between 10 and 20 years at a range of between $150,000 and $1 million a year. Obviously, we are not certain just what it is going to produce.

It is the city's position that New York should share in the revenues which would flow from this landfill gas project as other municipalities typically do. It was the acting on the part of the city, the creation of this landfill, which has produced the methane. Without the landfill operation, the methane would quite simply not exist for anyone to recover.

Furthermore, in creating this resource, the city has incurred considerable expense, on the order of $65.00 a ton for the garbage that it has disposed. The methane recovery operation will, on the other hand, net only approximately $3.00 per ton or far less than the city's disposal cost. A share of revenues would permit the city to offset a small but not insignificant portion of the costs that it has already incurred.

I, particularly, want to emphasize that the gas at the landfill was created by an extraordinary action on the part of the city and is in no way analogous to other minerals. There are no mineral rights in the classic sense which pertain to the Fountain Avenue site.

Rather the city has put a resource in place and should be allowed to share in the benefits that flow from its actions.

The sharing of the benefits from the methane recovery project provided for in S. 2218 is consistent with the administration's emphasis on substituting new local sources of revenue for traditional Federal assistance, and it is also consistent with the administration policy to remove the Federal Government as an obstacle in developing domestic energy sources.

It should also be recognized that the city has exclusive rights of possession, use, and occupancy for the Fountain Avenue landfill through 1985, during which time disposal activities will continue. During this period, a significant amount of gas could be recovered as part of a prudent and effective waste disposal program.

Landfill gas recovery projects do not have adverse environmental impact. This makes them different from many other kinds of energy projects that were undertaken. Indeed landfill gas recovery has many beneficial environmental effects. Environmental benefits include removal in the recovery process of some of the other landfill gas elements which are the source of some of the noxious odors of a landfill and speed the time when the landfill can sustain vegetation through the collection and removal of the disruptive gases. All of these will be helpful to the eventual transformation of Fountain Avenue from a landfill to a park.

It is important to underscore that either with or without a landfill recovery project, Fountain Avenue would be unsuitable for park use for an extended period of time. The landfill gas generation will continue in large quantities for 20 years, and decreasing quantities up to a 100 years after termination of landfill operations, without a gas recovery project. Given settlement of the landfill up to 3 feet a year makes even mundane uses such as paving and placing of park benches on the landfill impossible for that period of time, and I think as we all know a landfill that is untreated and stays there is not something nice to look at. By the time Fountain Avenue is adaptable for any recreational use, the landfill gas recovery project will have terminated.

It is our national energy policy as enunciated in the Resource Conservation Recovery Act of 1976 to reduce our dependency on foreign energy imports via using solid waste as a potential source of energy. The project which this legislation will facilitate will develop a new and otherwise wasted source of energy from garbage by a municipality at no cost whatsoever to the Federal Government.

The city is experienced in the management of landfill gas projects and fully prepared to manage this one. We have assembled a staff which deals exclusively with resource recovery in the Department of Sanitation. We currently sponsor three other landfill gas recovery projects, two at Fresh Kills, Staten Island, the world's largest landfill, and another at the Pelham Bay landfill in the Bronx. We are qualified and confident of our ability to see that the methane is developed and utilized to its best advantage.

It is extremely important that this legislation be enacted by Congress quickly in order to prevent the wasting of this precious energy source. Unlike oil which remains in the ground until tapped, landfill gas vents continously into the atmosphere. In order

to test the landfill to precisely ascertain the characteristics of the gas and be able to design and construct the appropriate facilities, a minimum of 4 to 6 months of continuous testing in warm weather is required. If this testing is not done now in the spring and summer term, a full year's worth of gas roughly estimated to be the equivalent of 400,000 to 600,000 barrels of oil will be lost forever.

The enactment of this legislation represents a rare opportunity. Congress can enable a project with uniformly beneficial results to occur. Methane recovery at Fountain Avenue offers the potential for development of a new source of energy by a municipality to extend urban energy supplies at reasonable costs.

In addition, the project will be accomplished in an environmentally beneficial manner which is compatible with the ultimate congressional mandate for the use of this land. All of this can be achieved without any public expenditure.

We urge prompt action by this committee to permit this project to proceed. That concludes my prepared testimony. I would be happy to answer any questions.

[The prepared statement of Ms. Gerard follows:]

TESTIMONY OF KAREN N. GERARD
DEPUTY MAYOR FOR ECONOMIC
POLICY AND DEVELOPMENT
OF THE CITY OF NEW YORK

Mr. Chairman and members of the Committee, I am Karen Gerard, Deputy Mayor of The City of New York for Economic Policy and Development. Accompanying me are Robert Herzog, Director of the New York City Energy Office, and Abram Orwasher of the New York City Law Department. I am pleased to be able to testify before your Committee today in support of Senate Bill 2218 which would enable the City of New York to sponsor a landfill gas recovery project at the Fountain Avenue landfill in Brooklyn.

Fountain Avenue is a New York City controlled and operated 300 acre sanitary landfill. In 1974, the land upon which the landfill is situated was deeded by the City to the Federal Government for eventual inclusion in the Gateway National Recreational Area. In that deed, the City reserved for itself the right to landfill at Fountain Avenue until December 31, 1985.

This legislation is designed to facilitate a landfill gas recovery project at Fountain Avenue by the City of New York despite the December 31, 1985 closing of the landfill and its subsequent transfer to the National Park Service. S. 2218 will permit immediate testing for the project to begin, which is the first step toward actual operation of such a facility. A project of this nature requires a minimum term of twenty years after completion of landfilling operations. Methane, the major component of landfill gas, is generated in substantial quantities during this twenty year period. The twenty year project life is necessary

to justify economically the capital investment required to accomplish the project.

Landfill gas is generated as a result of the natural anaerobic process of decomposition of municipal solid waste, or garbage, in a landfill. The gas formed is about fifty percent methane, which is usable as natural gas. If uncaptured, this gas naturally dissipates into the atmosphere and is lost. The relatively new technology of methane recovery is a process by which energy is captured, through a system of collection pipes sunk in the landfill. The captured gas is transmitted to a nearby processing plant where undesirable elements are separated out. The remaining gas, which in other landfills around the country has an average heating value of 500 BTU/Standard Cubic Feet or "SCF", is then either upgraded to a natural gas of pipeline quality of 1000 BTU/Standard Cubic Foot and sold to the local utility; sold as is, to a customer with boilers dedicated, or customized, to use this kind of medium BTU gas; or used in dedicated generators to produce electricity.

The specific characteristics of the landfill gas at Fountain Avenue, and the economics involved, are unknown at this time. Accordingly, the revenues which this project may generate, and the overall economic viability of the state-of-the-art, emerging technology associated with this project, are speculative. Unknown factors include the actual volume of gas, its generation rate, its extraction rate and the quality of the methane component of the

gas. The economics include the availability and needs of potential customers, the capital and financing costs of the project and the price each kind of gas can command on the market. All of these variables will dictate the ultimate use of the gas. As an example of the parameters involved, the capital costs of upgrading the gas to pipeline quality are estimated in 1981 dollars at upwards of $20 million. A medium BTU, "as is" project would cost approximately $3.5 million. Pipeline quality gas today sells for about $4.92 per million BTU; medium BTU gas, about $2.20 per million BTU.

Three major develpment scenarios exist for landfill gas recovery projects: municipal development; private development; or joint venture development. In either private or joint venture development, the municipality receives a fee for supplying the landfill and the gas-producing municipal solid waste. In the vast majority of cases, the fee for municipalities has been 12½% of the gross project revenues.

The Fountain Avenue project will follow the "private development" scenario, with the City negotiating with a private developer to develop the landfill. In this instance, it is still difficult to assess the potential revenue the City will derive from the project because of uncertainties associated with the future market price of the gas from the landfill and any offsets for capital expenditures, financing and overhead costs which might be factored into the computation of the City's share of the proceeds.

An estimate by a consultant to the New York State Energy Office, Richard Mandeville, concluded that Fountain Avenue will yield methane in a range varying between 2.5 and 7.0 million SCF/day, over a 20 year period. His estimate assumes that methane generation will increase steadily in years 1-5 after final placement of solid waste, peak in year 5, and decrease through year 20. Extrapolating, Mandeville's estimates project the gross project revenue to range from $1,207,500 to $3,365,000 on an annual basis. Assuming a 12½% gross share for the City, the City's proceeds would range from $150,000 to $420,000 per year.

The City's own analysis indicates a somewhat different range of potential revenues. Assuming that the economic and technical risk of the project as a whole is justified by the test results, after a contract is negotiated with a developer the City projects potential revenues, for a period of between 10 and 20 years, of a range between $150,000 and $1,000,000 a year.

It is the City's position that New York should share in the revenues which will flow from this landfill gas project as other municipalities typically do. It was an action on the part of the City, the creation of this landfill, which has produced the methane. Without the landfill operation, the methane would, quite simply, not exist for anyone to recover. Furthermore, in creating this resource, the City has incurred a considerable expense, on the order of $65/ton of garbage disposed. The methane recovery operation will, on the other hand, net only approximately $3/ton, or 20 times less than the City's disposal costs. A share of the revenues

would permit the City to offset a small, but not insignificant, portion of its already incurred costs.

I particularly want to emphasize that the gas at the landfill was created by an extraordinary action on the part of the City and is in no way analogous to other "minerals." There are no "mineral rights," in the classic sense, which pertain to the Fountain Avenue site. Rather, the City has put a resource in place and should be allowed to share in the benefits that flow from its actions. The sharing of the benefits from the methane recovery project provided for in S. 2218 is consistent with the Administration's emphasis on substituting new local sources of revenue for traditional federal assistance and is also consistent with Administration policy to remove the federal government as an obstacle in developing domestic energy resources.

It should also be recognized that the City has exclusive rights of possession, use and occupancy for the Fountain Avenue landfill through 1985, during which time disposal activities will continue. During this period of time a significant amount of gas could be recovered as part of a prudent and effective waste disposal program.

Landfill gas recovery projects are rare in that they do not have adverse environmental impacts. Indeed, landfill gas recovery has many beneficial environmental effects. Environmental benefits include removal, in the recovery process, of some of the other landfill gas elements which are the source of some of the noxious

odors of a landfill and a speeding of the time when the landfill can sustain vegetation, through the collection and removal of destructive gases. All of these positive effects are helpful in the eventual transformation of Fountain Avenue from a landfill to a park.

It is important to underscore that either with or without a landfill recovery project, Fountain Avenue would be unsuitable for park use for an extended period of time. Differential settlement of the landfill of up to three feet per year makes even mundane uses such as paving and placing of park benches on the landfill impossible for that period of time. In addition to the nuisance posed by the landfill gas generation, which will continue in large quantities for twenty years, and in decreasing quantities for up to one hundred years after termination of landfilling operations, without a gas recovery project, is the obvious physical repugnance of a landfill. By the time Fountain Avenue is adaptable for any recreational use, the landfill gas recovery project will have terminated.

It is our national energy policy, as enunciated in the Resource Conservation and Recovery Act of 1976"...to reduce our dependency on foreign energy imports via using solid waste as a potential source of energy." The project which this legislation will facilitate will develop a new and otherwise wasted source of energy, from garbage, by a municipality, <u>at no cost whatsoever</u> to the Federal government.

The City is experienced in the management of a landfill gas project and fully prepared to manage this one. We have assembled a staff which deals exclusively with resource recovery. We currently sponsor three other landfill gas recovery projects, two at Fresh Kills, Staten Island, the world's largest landfill, and another at the Pelham Bay landfill in the Bronx. We are qualified and confident of our ability to see that the methane is developed and utilized to its best advantage.

It is extremely important that this legislation be enacted by Congress quickly, in order to prevent the wasting of this precious energy resource. Unlike oil, which remains in the ground until tapped, landfill gas vents continuously into the atmosphere. In order to test the landfill to precisely ascertain the characteristics of the gas and be able to design and construct the appropriate facilities, a minimum of 4-6 months of continuous testing in warm weather is required. If this testing is not done now, a full year's worth of gas, roughly estimated to be the equivalent of 400,000 - 600,000 barrels of oil, will be forever lost.

The enactment of this legislation represents a rare opportunity. Congress can enable a project with uniformly beneficial results to occur. Methane recovery at Fountain Avenue offers the potential for development of a new source of energy, by a municipality, to extend urban energy supplies at reasonable costs. In addition, the project will be accomplished in an environmentally beneficial manner, which is compatible with the ultimate Congressional mandate for the use of this land. All of this can be achieved without any public expenditure. We urge prompt action by this Committee to permit this project to proceed.

That concludes my prepared testimony. I would be happy to answer any questions the Committee might have.

Senator WALLOP. Thank you, Deputy Mayor Gerard. With your three other landfill gas recovery projects, presumably you have some experience as to the costs of recovery. Are they reasonably similar in each of the three projects?

Mr. HERZOG. Each of the projects is somewhat different. The Pelham Bay one is an 83 acre landfill, already closed, and we are attempting there to take the gas as it is, not upgrade it to pipeline quality, and ship it over to a very large housing project for utility boiler fuel for heat there, so those costs would be not comparable here.

The Fresh Kills project, which is a 400-acre lease on a 2,000-acre landfill is approximately the closest to that project, even though the characteristics of the gas and makeup of the garbage that went in changed. We discover odd things in our dumps every day, but those costs would be roughly comparable, so the Fresh Kills project is the closest. We have some idea from that.

Senator WALLOP. One of the problems that I have with the bill, and it is typical at this moment, is that when you are talking about net profit, it is different than an ordinary oil and gas project on other public properties and other public waste in which you share the gross revenues. I am sure you can see the concern the country might have if it is going to hype their expenses.

Ms. GERARD. I will answer that. Since the formula that we share in is 12½ percent of the gross is the city and then—

Senator WALLOP. You use the same formula?

Ms. GERARD. The Federal share would be 12½ percent. There isn't this opportunity I believe that you are concerned with that somebody goes and says what is it? It is a very clear step down I believe.

Senator WALLOP. We get 12½ percent of your 12½ percent?

Ms. GERARD. That is correct.

Mr. HERZOG. You get a gross of our gross.

Ms. GERARD. So there isn't any opportunity. We have had considerable debate on this with the Department of Interior to make it as clean as possible so that 20 years from now people are not discussing what that definition means.

Senator WALLOP. Thank you all very much. We appreciate it.

Next is Mr. Hooper Brooks, director of the Gateway Citizens Committee. Mr. Lienesch, would you come up as well? We can perhaps try to get your testimony as well.

STATEMENT OF HOOPER BROOKS, DIRECTOR, GATEWAY CITIZENS COMMITTEE

Mr. BROOKS. Thank you, Mr. Chairman. I am director of the Gateway Citizens Committee. While the Gateway Citizens Committee supports the principles engendered by S. 2218, and we would like to support the bill, we do not think that it credits a fair share of revenue for the development and improvement of Gateway National Recreation Area.

The Gateway Citizens Committee was formed in 1970. Composed of citizen, conservation, and community leaders, it speaks for more than 30 major civic, conservation, recreation, and community organizations of the States of New York and New Jersey.

The committee has worked on many fronts, first, to establish the park, then to advocate quality planning and development, build the park's constituency, encourage adequate funding, and most recently, defend the park.

The concept of recovering National Park Service owned methane gas from Fountain Avenue landfill at Gateway makes good sense. It is a wasting resource with strong promise as an alternative source of energy. It would be extracted by private industry, cost the taxpayer nothing, and bring royalty revenue back into the economy. It is a unique opportunity with minimum disruption to an already disturbed landscape, certainly not a precedent that would apply anywhere except other landfill sites.

The concept of sharing profits between the city of New York and the National Park Service also makes good sense. It does not make sense that the city would receive most of the profits, however. The Federal Government owns the land and the gas. Gateway National Recreation Area pumps 9 million Federal dollars into the local economy per year while serving 9 million roughly annual visitors, 7 million in New York. In this instance, the city's contribution, main contribution, is to coordinate the gas extraction effort. Any substantial capital investment will not be made by the city but by private industry. We think 50 percent of the revenues received by the city of New York should be established as the fair share for the National Park Service and Gateway.

This would be a proper recognition of the mutuality of the interest between the city of New York and the national park, an interest which should include in addition clarification of the city commitments to close the landfill and improve water quality in Jamaica Bay.

This bill comes at a time when the National Park Service is stretching scarce capital dollars to meet a miltitude of pressing needs nationwide. This bill is no substitute for the normal appropriation process, but if S. 2218 can be adopted with a larger share of revenues for Gateway, we think it would be a realistic, innovative way to bring funds to enhance Gateway's service to the New York region and a successful example of Federal/local, public/private cooperation.

Those are my comments, Mr. Chairman.

[The prepared statement of Mr. Brooks follows:]

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Hooper Brooks
Director

Statement of

Hooper Brooks
Director, Gateway Citizens Committee

on behalf of the
GATEWAY CITIZENS COMMITTEE

Subcommittee on Public Lands and Reserved Waters
Senate Committee on Energy and Natural Resources

Hearing on S. 2218
Methane Gas Extraction, Fountain Avenue Landfill
Gateway National Recreation Area

April 14, 1982

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The concept of sharing profits between the City of New York and the National Park Service also makes good sense. It does not make sense that the City would receive most of the profits, however. The federal government owns the land and the gas. Gateway National Recreation Area pumps nine million federal dollars into the local economy per year while serving nine million annual visitors--seven million in New York. In this instance, the City's main contribution is to coordinate gas extraction efforts. Any substantial capital investment will not be made by the City, but by private industry.

We think 50% of the revenues received by the City of New York should be established as the fair share for the National Park Service and Gateway. This would be a proper recognition of the mutuality of interest between the City of New York and the National Park--an interest which should include, in addition, clarification of City commitments to close the landfill and improve water quality in Jamaica Bay.

This bill comes at a time when the National Park Service is stretching scarce capital dollars to meet a multitude of pressing needs nationwide. This bill is no substitute for the normal appropriation process but if S. 2218 can be adopted with a larger share of revenues for Gateway we think it would be a realistic, innovative way to bring funds to enhance Gateway's service to the New York Region and a successful example of federal/local, public/private cooperation.

Senator WALLOP. I appreciate it. I think that 50 percent of which you speak is a more traditional means of sharing royalty. Federal Government generally shares with the States 50 percent of either the 12½ or 16 percent, whichever happens to come out of other areas.

Inasmuch as you are talking net profit without a risk to either party, it may be that the committee will look at that pretty hard, as I suggested to Senator D'Amato earlier.

I appreciate your testimony. Mr. Lienesch?

STATEMENT OF WILLIAM C. LIENESCH, ASSISTANT DIRECTOR, FEDERAL ACTIVITIES, NATIONAL PARKS AND CONSERVATION ASSOCIATION

Mr. LIENESCH. Thank you, Senator. My name is William Lienesch. I am with the National Parks and Conservation Association.

Normally, we would not be in the position of supporting oil and gas activity in the national park system, but we do believe that this is a very particular situation, and therefore, we do generally support this legislation.

The one amendment that we would be asking for is noted in the testimony and has to do with the issue we were just discussing, and that is the cut or the percentage that would go to the city and the percentage to the National Park Service. We would prefer to see

what we understand to be the normal situation where a minimum of 12½ percent would go to the National Park Service from the value of the gas produced, but if that would not make this an economically viable project, we would support a 50/50 split between the city and the Park Service.

We would also recommend or in the testimony I have recommended three ideas for your consideration in the report. One of those I believe the Deputy Director, Mr. Hutchison, discussed in the form of an amendment, and we would support that, "that" being the legislation itself rather than the report, and that is the issue of making sure that the site is cleared up by the private company to the satisfaction of the Secretary prior to the termination of this project.

The other two points that we would like to see made in the report, one is that this situation is a special situation and should not be looked on as a precedent for opening up other areas that are now currently closed in the national park system to oil and gas activity, and the last point that we would like to see in the report is that this legislation would in no way affect the current agreement between the city and the Park Service about the city's responsibilities for renewing the landfill site at the point at which it is eventually turned over to the Park Service.

That concludes my testimony.

[The prepared statement of Mr. Lienesch follows:]

STATEMENT OF WILLIAM C. LIENESCH
ASSISTANT DIRECTOR FOR FEDERAL ACTIVITIES
NATIONAL PARKS & CONSERVATION ASSOCIATION
Presented to the
Subcommittee on Public Lands
and Reserved Water

U.S. Senate
on
S. 2218

April 14, 1982

The National Parks and Conservation Association appreciates the opportunity to testify on S. 2218 which would provide for the utilization of the energy sources located at the Fountain Avenue landfill in Gateway National Recreation Area (NRA). Gateway NRA, with over 7,000,000 visits annually, is one of the most heavily visited units in the National Park System. We are pleased, therefore, to have the opportunity to testify on legislation which would have such a direct effect on one of the most popular units in the National Park System.

In general, we support S. 2218. Since there is recoverable gas in the landfill, we believe that it should be utilized. However, we believe that the legislation should be amended to provide more funding to the National Park Service. It is our understanding that the federal government normally receives a royalty of not less than 12.5 percent of the value of the gas produced from federal property. S. 2218 provides that Gateway NRA would receive 12 percent of the revenues received by the City of New York. In other words, the federal government will be receiving 12 percent of the net revenues going to the city rather than the customary minimum of 12.5 percent of the value of the gas produced. We see no reason why this project would necessitate a change in the normal procedure and therefore recommend that the legislation be amended to give Gateway NRA 12.5 percent of the value of the gas produced. If this percentage proves to make the project economically infeasible, then we would recommend a 50-50 split of the revenues between the city and the Park Service of those monies going to the city from the private company chosen to recover the methane gas.

We also recommend that the report accompanying this legislation specifically note that this legislation does not act as a precedent for allowing oil and gas drilling or recovery in units of the National Park System where such activity is currently prohibited. The vast majority of units of the National Park System are not open to oil and gas drilling. The report must make clear that the situation at Gateway is a special situation and this legislation is not the first step toward opening up the National Park System to oil and gas activity.

We also recommend that the report include language to make it explicitly clear that the private company that wins the competitive contract to recover the gas must clean up the site at the end of its operation to the satisfaction of the National Park Service. Similarly, the report should make clear that the city is still responsible to renew the landfill site at the end of its operation to the extent that it has already agreed to do so.

We appreciate the opportunity to appear before the Subcommittee and will be happy to answer any questions.

Senator WALLOP. Yes. I appreciate that, and I can't imagine it would in any way establish a precedent for the more normal forms of exploration and production that might take place in the oil and gas business or any other business, and I really know of nobody who anticipates that that is going to be offered as a national policy or that it ought to be, so I don't think the precedent is a worry. It wouldn't be for me. It is an entirely different concept.

Generally, I agree with you, that it is not a bad concept. It is a good idea to use the waste resource and make that additional property available a good deal earlier than it might otherwise be for the enjoyment and benefit of the public.

I do agree with you, and I don't know quite where we will go with regard to the distribution of revenues, but I think that 12½ percent is a very meager fare for the Government, and indeed if what we are ultimately trying to do is dedicate those revenues in some way or another to the enhancement of the facility itself, it seems a little bit of sort of biting your nose to spite your face attitude on the part of the city.

There may be other reasons of which I am not aware yet, but ultimately it is a benefit to everybody to have that park as well developed and competent to handle the rather extraordinary number of visitors that go through there as it can be, and it seems to me that that benefits the city of New York both as inhabitants and commercially. It must have some commercial benefits, wouldn't you say?

Mr. BROOKS. I would think so, yes. There is no specific figures on additional commercial benefits.

Senator WALLOP. It is where you can find anything, but it is sure that its existence would not have to be picked up in some other fashion by the city if it did not exist. I mean you do need some kind of a domestic recreation.

Mr. BROOKS. Furthermore, with appropriate development of the park as was originally envisioned, the spinoff commercial benefits to the city would even increase we feel, but that is speculative.

Senator WALLOP. I think, Tony tells me they already have to some extent, and certainly it has helped them have this property belong to the Park Service not be the expense to the city that it was becoming which I suspect was at least part of the reason for the gift. I think it probably was, so I appreciate your testimony. We will work on it. I believe that we can get something out that is of use to everyone. Thank you both.

That concludes the subcommittee hearing this morning. We will stand adjourned until further notice.

[Whereupon, at 12 noon, the hearing was adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Your Committee has requested the views of this Department on S. 1777, a bill "Relating to the establishment of a permanent boundary for that portion of the Acadia National Park which lies within the town of Isle au Haut, Maine."

Subject to several modifications, we support passage of this legislation.

The bill is intended to establish a permanent park boundary for the Isle au Haut portion of Acadia National Park in Knox County, Maine. We support this intent and believe a successful resolution of the boundary issue at Isle au Haut will help encourage the resolution of similar issues in other portions of the park.

Under existing law, the Secretary of the Interior is authorized to accept donations of lands, easements and buildings within that portion of Knox County in which Isle au Haut is located; acquisition through purchase is not authorized. Today, the Isle au Haut portion of the park contains many highly significant properties. However, all the park lands are not consolidated into a single management unit. Some important properties -- often partially or completely surrounded by park holdings -- remain in private ownership. At the same time, large parcels on noncontiguous park land lie to the north of the bulk of the park holdings at Isle au Haut.

In addition, several private landowners have complained that park visitors inadvertently trespass on these private lands. Others are concerned that under current law, park expansion through donation of easements and fee interests will be unrestrained in the future.

S. 1777 attempts to resolve these and related problems. Specifically, it would:

- establish a precise legislative boundary for the park within the town, by reference to an October 1981 boundary map;
- authorize acquisition by donation or exchange of the lands and interest therein depicted on the boundary map;
- authorize the Secretary to convey to the town within 90 days of the bill's enactment into law all lands and interests of the United States which are outside the boundary but within the town of Isle au Haut;
- authorize the Secretary to accept donations of easements outside the boundary if such easements are donated to a private

conservation trust, on which the park superintendent would serve as a trustee; and

- impose certain management restrictions on park lands within the town.

For the most part, we agree with this proposed solution. We believe it is basically consistent with the principles of this Department's land protection policy, which is currently being developed. However, we have several important reservations.

First, we believe the bill should be amended to authorize the condemnation and purchase of a quarter-acre tract whose ownership is uncertain. To clear title, we anticipate this parcel will have to be acquired through eminent domain proceedings, at an expected price of less than $50,000.

Ordinarily, we would be opposed to additional authorizations for acquisitions until we have determined our overall policy on clearing up the acquisition backlog under the Land and Water Conservation Fund. However, in this instance, since the acquisition is very small and we are assured that it can be accomplished for less than $50,000 we would have no objection to including it in the bill. If on appraisal we find the property cannot be acquired for $50,000 or less, the property would not be acquired.

Second, the Secretary is required to convey the lands within 90 days, but the conveyance is subject to mutually agreeable covenants. The bill is unclear as to which provision is controlling: the deadline for conveyance, or mutual agreement on covenants. We would prefer no deadline for conveyance but would not object if conveyance is required once the Department has acquired the bulk of the 302 acres of nonfederal lands -- enough in the opinion of the Secretary to constitute an administrable unit -- within the new boundary.

Third, section 4 of the bill raises certain administrative managment concepts and philosophies to statutory prohibitions and directions. This section is ambiguous, vague and at times a restatement of existing Park Service responsibilities. It would require that management not interfere with a "traditional resource-based economy," that visitation be "strictly limited," and that the Secretary establish carrying capacities at or below the average annual visitation during 1979-81 (3,156 people). We would suggest that these provisions are more appropriately addressed in the general management plan and recommend that they be deleted from the bill.

Fourth, under existing law, we have authority to accept easements throughout the town. The bill would change this by confining the Parks Service's authority to accept property to areas within the new boundary. At the same time, however, it authorizes the NPS to accept easements outside the new boundary if the NPS acts as a co-holder with the total land trust, for enforcement purposes. We recommend that this provision also be deleted as unnecessary.

It appears to the Department that, if landowners wish to encumber lands which they own outside the park, they can work with the State or other public and private entities to accomplish their purpose. The Tax Treatment Extension Act of 1980 provides gift tax incentives for donations of this kind, and these donations further promote established government conservation policies.

On the other hand, we do support the bill's elimination of current United States authority to receive, hold and enforce easements, and its concept of a private land trust that would carry out these functions. The growth of the private land trust concept and its potential for protecting areas of national importance -- including areas adjacent to our national parks -- is of real interest to us. We applaud the possibility of using this approach at Isle au Haut.

In this regard, we would have no objection to the park superintendent serving as a member of the trust. However, we note that his or her responsibilities as a trustee are distinct from his or her responsibilities as a superintendent.

The National Park Service remains concerned that many of the existing private land trusts -- with several notable exceptions -- are not always effective. If this concept is to be included in the Isle au Haut plan, or in other park plans, we would like to continue working with the Committee to improve the trust concept and develop purposes and functions that are appropriate to each case. The Department recognizes and shares the concerns of the citizens of Isle au Haut, as expressed in section 4 of the bill and at the April 14, 1982, hearings. We would not object to a requirement that the National Park Service and the town seek agreement on approaches to visitor use of the park and report the results of these discussions to the appropriate committees of the Congress within one year after enactment.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Donald Paul Hodel

SECRETARY

Donald Paul Hodel

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAY 10 1982

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Your Committee has requested the views of this Department on S. 1872, a bill "To amend the Act establishing the Capitol Reef National Park in the State of Utah to provide for a grazing phase-out schedule, and for other purposes."

We would support enactment of the bill with minor amendments to conform the bill to the original authorizing legislation for Capitol Reef Park.

For many years, the administrative policies of the National Park System have provided for the eventual elimination of domestic livestock grazing in all National Park System areas where it exists. The single exception to this general policy has involved certain historical areas, where grazing is important to the maintenance of historical scenes. The Congress has generally agreed with this phased reduction policy.

Capitol Reef National Park was established to preserve the park's unique geological formations, such as the water pocket fold, and the natural ecosystem that this area represents. In accordance with these purposes, section 3 of the Act of December 18, 1971 (85 Stat. 639), which established Capitol Reef National Park, already provides for an expiration of grazing within the park. S. 1872 would modify the current law, along the line of the Grand Teton National Park grazing reduction provisions.

Most of the Federal lands transferred from the Bureau of Land Management to the National Park Service by the 1971 Act had outstanding grazing leases. Currently, there are 18 grazing allotments at Capitol Reef National Park. Fifteen of these allotments lie both within and outside the park, and ten have more than 10 percent of their acreage within the park. Three allotments are totally within the park.

Termination of all grazing in the park at this time would reduce the existing allotments by 25 percent, from 17,393 animal unit months (AUMs) to 13,975 AUMs. The effects on individual ranchers caused by the elimination of grazing at this time would range from minimal to extreme, depending on the amount any given allotment overlaps the park. The total use within the park during 1982 is 3,418 AUMs. To date, two permits have been phased out. An additional 26 permits, totaling 738 AUMs are due to expire at the end of the current fiscal year.

Cattle ranching in this area has been a longstanding tradition and continues to be an important element in the local economy. We support the concept in S. 1872 of trying to provide an equitable solution to the current problem and minimize the impacts upon local ranchers and their lifestyle.

The 1971 Act provided for a phase-out based upon the time remaining in the existing leases, plus one extension: each of the one-year leases was granted a 10-year extension; existing 10-year leases were granted one 10-year extension from their date of expiration. Under this current law, the existing leases will be eliminated over the next 10 years, with the last lease expiring on May 31, 1992.

Under the provisions of S. 1872, the grazing leases or other forms of occupancy existing on December 18, 1971, would be extended so that all leases would expire 25 years from that date. Thereafter, they would be extended for the lifetime of those individuals holding the leases and their heirs, successors and assigns if they were members of the holder's immediate family on that date. Continued grazing within the park must be accomplished in a manner that does not result in any permanent damage to public resources, especially with regard to those park resources which have been recognized by Congress through the addition of this area to the National Park System. Continued interagency cooperation will help assure this protection.

While we support S. 1872, we do recommend a series of amendments to insure that continued grazing within the park is consistent, to the extent practicable, with the purposes for which the park was established.

First, we ask that the bill be amended to limit the transfer of allotments to persons and their heirs who were occupying or utilizing the land on December 18, 1971. This approach is an equitable solution, because -- by allowing a limited extension of grazing for those individuals whose rights were grandfathered by the Act which created Capitol Reef National Park -- it will protect the ranching lifestyle of those individuals and their children. At the same time, it also provides for the eventual termination of grazing, which is appropriate.

Second, we recommend a series of technical amendments which would clarify the language and its intent, to ensure that its effect pertains only to grazing and uses incident to grazing. Those amendments are as follows.

On page 1, revise lines 3 through 5 to read:

> That section 3 of the Act entitled, "An Act to Establish the Capitol Reef National Park in the State of Utah," approved December 18, 1971 (85 Stat. 639), is amended to read as follows:

95-870 O - 82 - 14

This is a perfecting amendment. The printed bill refers to the Act of December 18, 1971, only by its popular name and by citation only to title 16 of the United States Code, which has not been enacted into positive law. In addition, the second reference in the printed bill to section 3 is redundant.

On page 2, lines 1 and 2, strike out ", or for other purposes not inconsistent with the Act of August 25, 1916 (39 Stat. 535)," and insert in lieu thereof "or uses incident to grazing,". This amendment limits the continuation of use and occupancy to grazing and uses incident to grazing, and eliminates the possibility of grandfathering any other unintended uses.

On page 2, lines 5 and 6, strike out "successors, or assigns of such person,". This amendment limits the continuation of grazing privileges to the holder and his heirs and is consistent with section 3 of the Act establishing Capitol Reef National Park.

On page 1, line 7, and on page 2, lines 11 and 17-18, strike out "the Act of December 18, 1971," and insert in lieu thereof "this Act"; on page 2, lines 9-10 and 15, strike out "Secretary of the Interior" and insert in lieu thereof "Secretary"; and on page 2, line 17, strike out "Capitol Reef National Park" and insert in lieu thereof "park." This also is a perfecting amendment. It conforms the text of the bill to that of the 1971 Act.

The Office of Management and Budget has advised us that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Donald Paul Hodel

UNDER SECRETARY

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAY 10 1982

Honorable James A. McClure
Chairman, Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
RECEIVED
MAY 10 1982

Dear Mr. Chairman:

Your Committee has requested the views of this Department on S. 2218, a bill to provide for greater public recreational use of the Gateway National Recreation Area and for immediate utilization of an existing energy resource which is currently being depleted from the area.

We support passage of the legislation.

S. 2218 would convey to the city of New York all rights to the methane gas resulting from solid waste decomposition on the Fountain Avenue landfill site, located within the Jamaica Bay of Gateway National Recreation Area. The conveyance made by the bill is subject to payments to the United States of 12 percent of any revenue received by the city from development of the gas; all such payments to the United States would be credited to the appropriations of the National Park Service for the development and improvement of the recreation area.

Gateway National Recreation Area consists of approximately 26,172 acres in the States of New York and New Jersey, including uplands, heavily used beaches and marshlands. In 1981, approximately 7,381,000 recreational visits were recorded at the recreation area.

The recreation area was established by the Act of October 27, 1972 (Public Law 92-592). In March of 1974, the city of New York donated the Fountain Avenue landfill site to the United States as an addition to the recreation area. The site has been used as a landfill since about 1965 and, under the terms of the donation, the city reserved the right to continue using the site for landfill purposes through December 1985. So long as the site is used as a landfill, it is not available for public recreation development: the landfill activities and the escaping methane gas, generated by decomposition of the wastes, create a fire hazard and make the site unsuitable for public use at this time.

In order to reduce that hazard, utilize this valuable energy resource, and develop the area's recreational potential, in 1979, the city of New York requested the right to produce the methane gas at the Fountain Avenue site. Recovery of the gas was not contemplated in the instruments by which the city donated the site to the United States, and both the ownership of the methane and the authority to dispose of it are unclear. In fact, the necessary authority may not exist at all under current law. The Department of the Interior Solicitor's Office has advised us that the gas belongs to the United States. The city does not agree. Accordingly, we believe special legislation would be appropriate to accommodate the city's request. Senator D'Amato introduced S. 2218 for that purpose.

There are several aspects of the bill that should be specifically mentioned. First, it is a self-executing conveyance of rights to the methane gas, as opposed to a competitive bidding procedure. We have no objection to such a conveyance to the city in this instance, since the source of the gas is refuse from the city and the United States acquired the site from the city at no cost.

Second, the bill makes the conveyance subject to payment to the United States of 12 percent of any revenue received by the city as a result of production. While this is lower than the royalties that would normally accrue to the United States, we believe the 12 percent figure is acceptable in this instance, considering the source of the natural gas and the fact that any rights the United States has to this gas arose because of New York City's donation of this property to the National Park Service.

The third aspect of the bill that bears special mention is the provision crediting revenues received by the United States from the city to appropriations for Gateway National Recreation Area. If this provision were not in the bill, the revenues would be required to be paid into miscellaneous receipts in the Treasury and would not be available for Gateway programs unless and until they were appropriated for that purpose. For fiscal year 1982, the operation and maintenance budget for Gateway is $10,343,000. Depending on the value of the gas, substantial program needs can be met at Gateway from the United States' share of the revenues from gas development.

Fourth, although estimates have been made regarding the value of this methane gas (for example, Senator D'Amato has indicated that the landfill could produce the equivalent of 400-600,000 barrels of oil annually), resource estimates of this nature are speculative, at best. However, regardless of the actual amount involved, royalties on this production will represent a significant net gain to the United States and an important offset to appropriations for the Gateway Recreation Center. We would also note that, at the present time, the Federal Government is receiving no revenues from this resource, as the gas is now being wasted into the atmosphere.

The Department would defer to the city of New York concerning its plans for contracting with a producer if the gas were conveyed to the city by this legislation. The city has advised us, however, that it would use a competitive bidding procedure and that early action on the bill is essential to obtain the most revenue, since the gas is escaping in large quantities every day.

Finally, we would suggest two amendments. At the beginning of the new subsection (i), we suggest that the phrase "notwithstanding the provisions of subsection (a) of this section" be added. This technical amendment is necessary to clarify possible inconsistencies.

We also recommend that the following be inserted before the last sentence of the new subsection (i):

> The Secretary shall grant to the city, its lessee or assignee, all rights-of-way and other permits necessary from the Department of the Interior to extract and transport the gas from the site: Provided, That the rights-of-way and other permits shall provide for reasonable restoration of the site, including removal of any processing or storage facilities used in the disposal, development or extraction of the gas, access by the Secretary to the site for safety and other recreation area purposes, and such other reasonable conditions as the Secretary deems necessary to further the purposes of the recreation area.

This amendment requires the Secretary to grant any necessary rights-of-way or other permits necessary for recovery of the gas and specifies that the permits will provide for reasonable restoration of the site and such other conditions as the Secretary deems appropriate.

The Office of Management and Budget has advised us that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Donald Paul Hodel

SECRETARY

Donald Paul Hodel

WHITE, FINE & VERVILLE
ATTORNEYS AT LAW

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*ADMITTED TO MASS. BAR ONLY

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OF COUNSEL
JOHN S. FORSYTHE
WAYNE OWENS

April 27, 1982

The Honorable Malcolm Wallop
Subcommittee on Public Lands and Reserved Waters
Committee on Energy and Natural Resources
United States Senate
3204 Dirksen Senate Office Building
Washington, D. C. 20510

Re: S. 1777

Dear Senator Wallop:

Jack MacDonald appreciated the opportunity to testify in support of S. 1777 last Wednesday. Since the National Park Service was unable to deliver an Administration position on S. 1777 that morning, Mr. MacDonald was not fully aware of the Administration's opposition to certain provisions of the bill until the following day. Given the Administration's current position, Mr. MacDonald has asked me to submit, on behalf of the Town of Isle au Haut, additional views on one critical provision, Section 4.

Section 4 requires the Park Service to establish a carrying capacity for the Isle au Haut portion of Acadia National Park at current levels of visitation, defined as the average of the last three years. For the reasons set forth in Mr. MacDonald's statement to the Committee on April 14, the Town believes that this is the only way in which to insure that the resources of the Park will be protected and that the other conservation objectives of S. 1777 will be met.

The Park Service now opposes this provision of the bill on the ground that management restrictions "are more appropri-

ately addressed in the general management plan." In lieu of a statutory limit, the Park Service proposes to work jointly with the Town to "seek agreement on approaches to visitor use" and to report the results of those discussions back to the Congress one year after enactment. Despite the cursory fashion in which the Service addressed this issue in its statement to the Committee, the Town assumes that the Service opposes both the particular limit in S. 1777, and the establishment of any specific limit by statute.

It is more than a little ironic that the Service criticizes this same section of the bill as being "ambiguous and vague." It is precisely because a limitation pegged to current levels of visitation is neither ambiguous nor vague that the Administration has so vigorously opposed this provision.

The Service has always had the authority to establish carrying capacity limitations by administrative action. Since 1978, it has been under a statutory obligation to do so for all units of the National Park System, and for discrete areas within those units. Since the Service first began working on a master plan for Acadia more than ten years ago, Town representatives have asked repeatedly for some precise numerical limit on visitation consistent with what it believes the resource's carrying capacity to be. Now, a decade later, the Service has still not established any use limits, despite the fact that visitation has probably quadrupled during the period.

It is the Park's failure to set use limitations during this decade of ever-increasing use that convinced the Town that a statutory limit is the only way a concrete and enforceable carrying capacity will be established. While the Service suggests a one-year study effort, it is hard to believe the Park will do in the next year what it has resisted doing for the last ten. Even in recent months, Town and Park representatives have been working towards a visitor management plan dealing with these questions. Despite several meetings and an exchange of written views, the Park is no closer now to setting an enforceable limit administratively than it was when the discussions began. While the Park is willing to devote considerable rhetoric in planning documents to the need for conservation, it shys away from precise use limits, preferring to rely on the Island's physical isolation and its privately run mail-boat transportation as the limiting factors.

While these factors worked well historically (prior to 1970) in preserving a remote Island environment, they are considerably less effective today. State tourist promotion efforts, private

publications of wide circulation touting the Park on Isle au Haut, and the general trend of increased visitation to other areas of Acadia can only accelerate the growth in visitation already experienced. As you put it so well yourself in the hearing April 14, as the Island's remote beauty is publicized, it becomes a "flame" to which ever increasing numbers of "moths" will be attracted.

With respect to the transportation system, is is perfectly appropriate for the Park to enlist the cooperation of a privately-owned boat company in enforcing a limit established by statute, but we do not think it appropriate for the boat company to be the limit. While the boat company's primary objective over the years has been to provide reliable service to the Town, it has in fact accommodated increased numbers of visitors to the Park; if it became unwilling to do so in future years, some other private operator might well come forward to meet the demand and probably stimulate it as well.

For all these reasons, the Town remains convinced that a statutory limitation in this case is both appropriate and necessary.

Respectfully submitted,

Robert J. Saner II
Counsel for the Town
of Isle au Haut, Maine

RJS/bp

cc: Senator William S. Cohen
Senator George Mitchell
Congressman David F. Emery
Mr. Jack MacDonald

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE
04333

JOSEPH E. BRENNAN
GOVERNOR

1982 MAY -7 PM 2:49

May 4, 1982

The Honorable Malcolm Wallop, Chairman
Senate Committee on Energy and
Natural Resources
Sub-Committee on Public Lands and
Reserved Waters
Washington, D.C. 20510

Dear Mr. Chairman:

Your committee will be considering S. 1777, A Bill to establish a permanent boundary for Acadia National Park within the township of Isle au Haut, Maine. I request that you include this letter in the formal record of the hearing on this bill.

This proposed legislation is the result of many years of study and discussion by local and regional interests and negotiations with the National Park Service. It establishes permanent boundaries for Park acquisition, provisions for use of lands outside the fee boundary and policies on conservation easements, all of which have received strong local support.

We have reviewed the terms of this proposed legislation and discussed its genesis with concerned and affected parties. This is an extremely desirable and timely proposal. It recognizes the interests of local residents and furthers the goals of the Park Service in protecting the outstanding aesthetic and natural values of this incomparable Maine island.

I urge you and the members of your committee to give it favorable consideration.

Sincerely,

Joseph E. Brennan

JOSEPH E. BRENNAN
Governor

JEB/sc
CC: Senator Mitchell
Senator Cohen
Congressman Emery
Congresswoman Snowe

WRITTEN TESTIMONY

SUBMITTED TO THE

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER,

COMMITTEE ON ENERGY AND NATURAL RESOURCES

UNITED STATES SENATE

THIS STATEMENT IS SUBMITTED ON BEHALF OF THE
NATURAL RESOURCES COUNCIL OF MAINE

The Natural Resources Council of Maine is a non-profit, membership-supported conservation organization which deals primarily in the environmental affairs of Maine. The Council has 3,300 members and represents, in addition, 80 affiliated conservation organizations. We are the Maine affiliate of the National Wildlife Federation.

The Natural Resources Council of Maine wholeheartedly supports S 1777, a bill relating to the establishment of a permanent boundary for that portion of the Acadia National Park as lies within the Town of Isle au Haut, Maine. We are convinced that the establishment of a permanent boundary is important to the long-term welfare of the Park, as well as to good relations with the residents of the area. We believe that the proposed legislation is extremely fair to all interests and will effectively conserve the resources for all time and for the appropriate enjoyment of Park visitors.

We urge passage of this legislation to accomplish these important goals. We have communicated our support to all members of the Maine Congressional Delegation, the Governor, and other government officials. We are pleased to note that there is widespread agreement that this proposed settlement is widely accepted and in the interest of conserving Maine's beautiful island resources.

March 29, 1982

Written testimony of Benjamin R. Emory, Executive Director of Maine Coast Heritage Trust, Northeast Harbor, Maine, submitted to the Subcommittee on Public Lands and Reserved Water, Committee on Energy and Natural Resources, United States Senate

Re: S.1777 - - A Bill relating to the establishment of a permanent boundary for that portion of the Acadia National Park as lies within the town of Isle au Haut, Maine

This statement is submitted on behalf of Maine Coast Heritage Trust. We are a non-profit organization established in 1970 specifically to encourage the use of conservation easements to preserve the scenic, ecological, and cultural values of the Maine coast. We have helped arrange 196 conservation easements conserving about 15,000 acres. Of these, 100 are held by the Federal Government through Acadia National Park.

We favor passage of S.1777. I will confine my comments to Section 3 of the bill, which section pertains to the use of restrictive covenants and conservation easements.

First, we strongly endorse the provisions of Section 3(a), which require that lands on Isle au Haut deleted from Acadia National Park be subject to perpetual restrictive covenants which shall preserve the scenic beauty and ecological integrity of these lands and which shall be enforceable by the Secretary of the Interior.

Second, our support for Acadia National Park's giving up its present authority to hold conservation easements anywhere within the Town of Isle au Haut is contingent upon passage of Section 3(b), which empowers the Secretary of the Interior to accept the obligation to enforce conservation easements donated to the Isle au Haut Land Conservation Trust. As one of the most beautiful parts of Acadia National Park Isle au Haut is nationally significant. Many privately owned properties within the Town of Isle au Haut are critical to the panorama enjoyed by residents and visitors alike. It is very important that private landowners be able to grant to the Secretary of the Interior the right to enforce in perpetuity conservation easements preserving the beauty of their properties.

Misconceptions about conservation easements held by Acadia National Park within the Town of Isle au Haut have made these easements controversial locally. As a result the private owners of some scenically very important properties have hesitated to donate conservation easements to the Federal Government. Establishing the Isle au Haut Land Conservation Trust and empowering the Secretary of the Interior to accept the obligation to enforce conservation easements donated to it is a political compromise which should lead to the preservation of more key properties.

Maine Coast Heritage Trust appreciates the opportunity to submit this testimony in support of S.1777.

House of Representatives
State House Augusta 04333
289-2866

Alfred W. Perkins
District 44

April 5, 1982

Honorable William Cohen
Senator for Maine
Washington, D.C.

Dear Senator:

I urge your support of and action on Senate Bill S-1777 - a bill relating to the establishment of a permanent boundary for that portion of the Acadia National Park as lies within the town of Isle au Haut, Maine, to be heard before the Senate Subcommittee on Public Lands and Reserved Water on April 14, 1982.

My interest lies in the fact that the Isle au Haut is in my Representative District #44.

My review of the bill and other papers leads me to believe that much ground work was done prior to the negotiations leading up to this bill. It really seems to have resulted in a good job done.

May it be acted on favorably.

Sincerely,

Alfred W. Perkins
Representative

AWP/mp

Hancock County Planning Commission

69 Main Street, Ellsworth, Me. 04605 (207) 667-713

James S. Haskell, Jr., Executive Director

Amherst
Aurora
Bar Harbor
Blue Hill
Brooklin
Brooksville
Bucksport
Castine
Cranberry Isles
Dedham
Deer Isle
Eastbrook
Ellsworth
Franklin
Frenchboro
Gouldsboro
Great Pond
Hancock
Isle au Haut
Lamoine
Lucerne-In-Maine
Marlaville
Mount Desert
Orland
Osborn
Otis
Penobscot
Sedgwick
Sorrento
Southwest Harbor
Stonington
Sullivan
Surry
Swan's Island
Tremont
Trenton
Verona
Waltham
Winter Harbor

April 13, 1982

The Honorable Malcolm Wallop
Chairman
Subcommittee on Public Lands and Reserved Water
Committee on Energy and Natural Resources
U.S. Senate
Dirkson Senate Office Building
Room 3204
Washington, D.C. 20510

RE: SENATE BILL S-1777

Dear Mr. Chairman:

The Hancock County Planning Commission is a regional planning and development district established by the Governor of Maine with a statutory responsibility to review and comment on federal projects and plans affecting planning and development within its region.

The town of Isle Au Haut is located within the jurisdiction of the Hancock County Planning Commission and is a Commission member of long standing.

Since 1972, this Planning Commission has been actively involved, on behalf of the communities directly involved, in attempting to get the National Park Service to adopt a Master Plan and to submit legislation for all of their Acadia National Park holdings.

At it's regular monthly meeting on April 12, 1982, the Planning Commission voted unanimously to submit the following statements for the record of your subcommittee's hearings on S-1777.

POSITION STATEMENT

The Hancock County Planning Commission has unanimously voted to go on record as supporting S-1777, relating to the establishment of a permanent boundary for that portion of Acadia National Park located within the town of Isle Au Haut, as presented.

The Hancock County Planning Commission recognizes that S-1777 as presented represents several years of careful study and good faith negotiation and represents a reasonable compromise between national and local interests.

The Hancock County Planning Commission is opposed to any eleventh hour attempt by the National Park Service or environmental lobbyists to amend the provisions of S-1777 unless such amendments are agreed to and supported by the elected officials of the town of Isle Au Haut.

The Hancock County Planning Commission particularly supports the provision which calls for the establishment of "carrying capacities" for Isle Au Haut which will limit visitation to the island at levels not to exceed the annual average visitation during 1979, 1980 and 1981. Visitations in excess of those numbers are projected to have an adverse impact on the road system of the Blue Hill Peninsula and of the parking facilities and traffic system within the port town of Stonington.

The Hancock County Planning Commission wishes to bring to the attention of the Subcommittee on Public Lands and Reserved Water of the Committee on Energy and Natural Resources, the fact that the National Park service has spent several hundred thousand dollars and has taken more than 10 years in preparing two draft Master Plans (1972 and 1976) for Acadia National Park.

Despite extensive public input, including an intensive mediation effort (1979) with an outside mediator, the National Park Service has failed to fulfill its responsibility to produce an acceptable Final Master Plan and legislation for the remainder of Acadia National Park.

The Hancock County Planning Commission requests the assistance of the Subcommittee on Public Lands and Reserved Water of the Committee on Energy and Natural Resources in seeing to it that the National Park Service submits legislation for the remainder of Acadia National Park during the current congressional session.

The Hancock County Planning Commission also requests the assistance of the Subcommittee in securing from the National Park Service, an official moratorium on their acceptance of any additional land or easements for Acadia National Park so as not to undermine the Master Plan negotiations that have taken place to date. This moratorium should remain in effect until such time as legislation for the remainder of Acadia National Park is enacted.

The Hancock County Planning Commission believes that a permanent boundary for Acadia National Park is critical to long-range municipal and regional planning, and to public and private investment in the communities directly impacted by the Park.

After more than a decade of participation and negotiation with the National Park Service, at considerable expense to ourselves and the nation, in attempting to achieve a mutually beneficial and equitable coexistence with Acadia National Park and its visitors, we are convinced of the legitimacy of our request.

We are the only region in Maine with a National Park. Approximately 50 percent of the land scheduled to be transferred to the Pasamaquoddy and Penobscot tribes, under the recent Indian Land Claim, is located in our County (5 2/3 townships).

As a region we have been asked, with no choice to decide for ourselves, to make sacrifices and significant contributions in the national or public interest.

The implications to our communities if legislation establishing permanent boundaries for the remainder of Acadia National Park is not enacted by Congress soon, is a deeper feeling of discouragement and frustration with the prospect of continued treatment of our communities by the Federal Government, which we consider inequitable.

Respectfully submitted with the hope that your committee will support S-1777 as presented and will assist us in securing legislation for the remainder of Acadia National Park,

Sincerely,

Michael K Knowles

Michael Knowles, Chairman
Hancock County Planning Commission

cc: Hon. William S. Cohen, U.S. Senator
Hon. George J. Mitchell, U.S. Senator
Hon. David F. Emery, U.S. Congressman
Hon. Olympia J. Snowe, U.S. Congresswoman
Hon. Joseph E. Brennan, Governor
Selectmen, Town of Isle Au Haut

Gordon S. Myers, M.D.
Arteriosclerosis Research Center
Massachusetts Institute of Technology
40 Ames Street
Cambridge, MA 02142

April 9, 1982

Honorable Malcolm Wallop
Chairman, Subcommittee Public Lands and Reserved Water
Committee Energy and Natural Resources
U.S. Senate
Room 3204, Dirksen Senate Office Building
Washington, D.C. 20510

Reference: S. 1777

Dear Senator Wallop:

I strongly support Senate Bill 1777 which I have just learned will be discussed by your committee at a hearing April 14, 1982. After the long delay following its initial proposal, I look forward to passage of the bill which will make possible contribution of a small piece of my property lying within the Great Meadow on Isle au Haut, Maine, to the Acadia National Park. I believe this would be in the best interests of the Park Service and the island community, but I am not willing to keep this option open indefinitely.

It is my hope that this letter will become a part of the record.

Sincerely,

Gordon S Myers

Gordon S. Myers, M.D.

CLF

April 12, 1982

The Honorable Malcolm Wallop
Chairman, Subcommittee on Public
Lands and Reserved Water, Committee
on Energy and Natural Resources
Room 3204 Plakson Senate Office Building
United States Senate
Washington, DC
ATTENTION: TONY BEVINETTO

Dear Senator Wallop,

The Conservation Law Foundation of New England, Inc (CLF) is pleased to submit its support of Senate Bill 1777, relating to the establishment of a permanent boundary for that portion of the Acadia National Park as lies within the town of Isle au Haut, Maine.

CLF is a public interest, environmental law organization dedicated to the conservation and preservation of New England's natural resources. Since 1966, CLF has used local, state,and federal law to improve natural resource management throughout New England. We have been extensively involved in the issue of park management, and have submitted comments to the National Park Service on a variety of topics, including the Acadia National Park Master Plan, and the Management Alternatives for Isle au Haut.

We particularly commend the Bill for its recognition of and strong commitment to the preservation of the island resource and the quality of visitor experience enjoyed therein. Isle au Haut is a valuable isolated and natural area, as reflected in the language of the proposed legislation.

95-870 O - 82 - 15

The establishment of visitor limitations not in excess of the annual average visitation during the period 1979 through 1981, as recommended, will be essential in fulfilling the noble intention to protect this fragile and increasingly popular area.

CLF does not in general approve of deletions from our National Park system, but in this case does not oppose them, due to inaccessability of the proposed deleted property, concerns of the island community, and particularly the acquisition of comparable property ajoining the park. The resulting boundary is the product of long years of negotiation, and will create a cohesive park unit better for park users, managers, and the local community.

CLF strongly supports Senate Bill 1777. It has confronted difficult issues such as community interest and carrying capacity, and emerged with a sound plan for Isle au Haut which will successfully preserve this remarkable resource and the quality of visitor experience for the many generations yet to come.

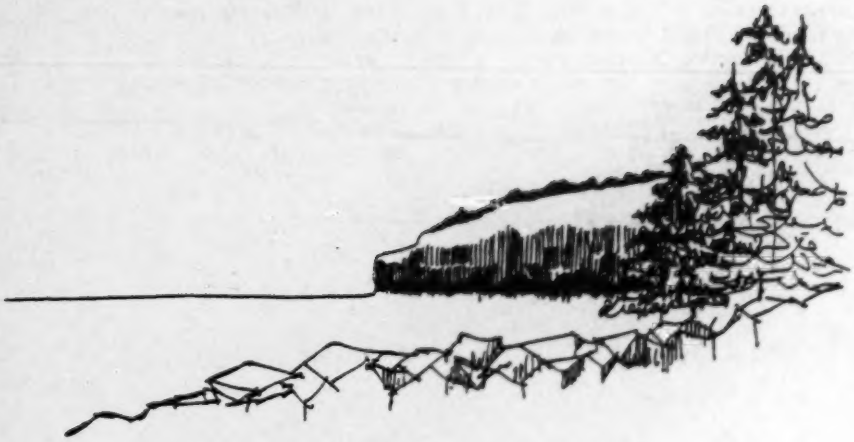
Thank you for this opportunity to express CLF's support of S 1777. If you have either questions or comments, please do not hesitate to contact me.

Sincerely,

Emily M. Bateson

Emily M. Bateson
Land Policy Project Director

Record of Decision



General Management

ISLE AU HAUT

Acadia National Park

FOREWORD

This document constitutes the Record of Decision for the General Management of the Isle au Haut unit of Acadia National Park. It is entitled a Review of Alternatives since it was first drafted in December 1977 before the current Council on Environmental Quality regulations implementing the National Environmental Policy Act were put into effect. A Finding of No Significant Impact accompanies this document and is found immediately following the three maps included in the Review of Alternatives.

REVIEW OF ALTERNATIVES
Assessment of Management Alternatives
Isle au Haut
Acadia National Park

This review records the various decisions made by the National Park Service in selecting a management alternative for the Isle au Haut unit of Acadia National Park. In arriving at these decisions careful consideration was given to the response from public meetings, individual public response, and National Park Service policies and legislative mandates.

FINDINGS

The assessment of Management Alternatives for the Isle au Haut unit of Acadia National Park discusses five specific management schemes. It was prepared over the course of the year beginning in mid-July 1976. During this period, the Park Service held one public meeting on Isle au Haut on August 5, 1976, and four meetings with the Isle au Haut Town Planning Board and Selectmen on the island between October 7, 1976, and July 9, 1977. Several meetings were also held between Park Service staff and individual Isle au Haut property owners at the Service's North Atlantic Regional Office in Boston during 1976 and early 1977.

Copies of the Assessment of Management Alternatives were mailed to approximately two hundred and seventy interested groups and individuals, including Maine's congressional delegation, local state legislators, local town managers, concerned state agencies, the state and local areawide A-95 clearinghouses, and the State Historic Preservation Officer. In addition, over two hundred copies of the Assessment were mailed to the Town of Isle au Haut for direct distribution to individuals living on or visiting the island, and twenty-five to thirty more were handed out by the Superintendent's office in Bar Harbor. Availability of the Assessment was published in the Federal Register of August 9, 1977, along with notification of three public meetings and a 30-day review period following the last public meeting.

The three public meetings held on the Assessment were conducted at the Isle au Haut Town Hall on August 29, 1977; at the Ellsworth, Maine, City Hall on August 30, 1977; and at the Stonington, Maine, Town Hall on August 31, 1977. The Isle au Haut meeting was the most heavily attended of the three meetings, with approximately 125 individuals in attendance, while both the Ellsworth and Stonington meetings attracted between fifteen and twenty individuals. At the Isle au Haut meeting, the Town Planning Board and the Selectmen presented their own management alternative for the Isle au Haut unit, and, following a lengthy presentation by the Planning Board, a number of individuals in the audience spoke in favor of the Town's alternative. Similar, but less lengthy, comment was expressed by the public at both the Ellsworth and the Stonington meetings.

Twenty-six written responses were received during the 30-day review period following the Stonington public meeting plus an additional statement from the Isle au Haut Planning Board and Selectmen. Of those responding, half identified themselves as summer residents of Isle au Haut, 19% as park visitors to Isle au Haut, and 31% represented governmental agencies or non-profit organizations. The summer residents overwhelmingly (85%) favored the Isle au Haut Planning Board's alternative, while the majority of the park visitors, governmental agencies, and non-profit organizations indicated that they favored the land acquisitions proposed in Alternative 4 and also the retention and acquisition of the entire median ridge.

DISCUSSION

The five alternatives presented in the Assessment of Management Alternatives for the Isle au Haut unit are:

1. No action. The present management policies would be continued including the point of visitor access at the Isle au Haut town dock (except for the morning mailboat trip from Stonington to Duck Harbor and the afternoon return trip that was instituted during July and August of 1978), overnight visitation limited to a maximum of 18 campers, and no limit on day visitation. The existing park boundaries would be retained.

2. Day use with park holdings consolidated in the southern half of the island. All overnight use would be terminated, and the number of day visitors would be limited by scheduling and capacity of the boat service, and the point of visitor access would be moved to Duck Harbor during the summer months. The park boundaries would be changed so as to delete most of the federal lands in the northern half of the island and consolidate the park holdings in the southern half. Eminent domain could be used within the new park boundaries only if a change in the nature or intensity of use of a parcel of land occurred.

3. Day use with park holdings consolidated in the southwestern sector of the island. The management policies would be similar to those proposed in Alternative 2, and the park holdings would be concentrated more toward the southwestern quadrant of the island than in Alternative 2.

4. Combination of day use and overnight use with the park holdings consolidated in the southern half of the island. Overnight use would be increased from the present maximum of 18 visitors to a maximum of 30 visitors per night; day use would be limited by the scheduling and capacity of the boat service, and the point of visitor access would be moved to Duck Harbor during the summer months. The park boundaries would be identical to those proposed in Alternative 2.

5. Combination of day use and overnight use with park holdings consolidated in the southwestern sector of the island. The management policies would be similar to those proposed in Alternative 3.

Public response to those proposed alternatives indicates there is virtually no support for Alternatives 1, 2, 3, or 5. Alternative 1 retains the town dock as the main point of visitor access and hence fails to resolve effectively the problem of visitor trespass in the Village of Isle au Haut and on the northern half of the island. It also does not address the consolidation of park holdings in the southern half of the island. Alternatives 2 and 3 prohibit all overnight use of the park, and thereby limit the visitor's opportunity to experience much of the real sense of remoteness of this island environment. In addition, the Town of Isle au Haut has never advocated the elimination of overnight use of the park and has indicated that limited overnight camping opportunities are less disruptive to the community than is day use.

Alternative 5 is judged inadequate for either one of two reasons. On one hand, those who favor the consolidation of park holdings in the southern half of the island believe Alternative 5 contains too great a decrease in park acreage, since all of Eastern Head would be eliminated from the park. On the other hand, those who favor the concentration of park holdings in the southwestern quadrant of the island feel the authority of eminent domain is unnecessary because very little acquisition of private land is called for in Alternative 5. The Isle au Haut Town Planning Board expresses the belief that all of this private land, except the Hamilton inholding, can be obtained without resort to eminent domain.

Alternative 4 receives some public support, mainly from those who have actually camped overnight in the park. Specific criticism of this alternative is that there is no justification for increasing the maximum number of overnight visitors, that trail access to the median ridge and the retention of Eastern Head would continue to encourage private property trespass, that retention of the Black Dina Trail corridor would continue the problems of visitor trespass and other conflicts in the Village of Isle au Haut, and that the authority of eminent domain is unnecessary.

Considerable public support is expressed for the Isle au Haut Town Planning Board's alternative by year-round and summer residents and also by the Hancock County Planning Commission. This alternative is similar to Alternative 5, but contains the following exceptions: (1) park visitation would be held to a maximum of 2,500 visitors during the visitor season and overnight camping use would not be increased beyond the present maximum of 18 visitors per night without a compensating reduction in day visitation; (2) the authority of eminent domain would not be granted the National Park Service on Isle au Haut; (3) the park boundaries would differ from Alternative 5 in that the Black Dina Trail corridor is eliminated, a small deletion is included in the Moore Harbor area in order to eliminate a private driveway which is presently on federal land, and the entire Great Meadow is included in federal ownership; and (4) the Park Service and the Town of Isle au Haut shall examine the possibility of using the mouth of Eli's Creek as a bad weather point of visitor access to the park instead of the town dock. In its endorsement of the Town Planning Board's alternative, the Hancock County Planning Commission further recommends the elimination of all overnight use of the park and that the northern boundary of the park run due easterly from the road at Moore Harbor instead of northeasterly as proposed in the Planning Board's alternative.

RECOMMENDATIONS

After careful consideration, the National Park Service recommends that a modified Alternative 4 be selected.

The Boundary

Pivotal in the management of Acadia is establishment of a new park boundary within which future fee acquisitions will be confined. The present boundary, established in 1929, includes all of Hancock County and those lands east and south of the Penobscot Ship Channel within Knox County. Isle au Haut falls within the latter category (see Figure 1).

The proposed new park boundary (see Figure 2) would encompass existing park holdings south of Sawyer Mountain with the retention of a corridor for trail access on the Trailer Lot. Added to this boundary would be: (1) the land encompassing the Great Meadow; (2) the land encompassing Jerusalem Mountain; (3) a strip of land west of Long Pond; (4) land encompassing Merchants Point and most of Merchants Cove; (5) Western Ear; and (6) the Hamilton Property at Duck Harbor. Excluded from this boundary would be three northern parcels that are presently not contiguous to the primary Park holdings to the south. These include: (1) Trailer Lot-- located near the center of Isle au Haut Village; (2) Northern Lot-- located on Champlain Mountain; and (3) Sawyer Lot-- located on Rocky Mountain.

One other parcel proposed for exclusion includes a driveway to a private home in the Moore Harbor area. The lands included within the Trailer Lot, Northern Lot, and Sawyer Lot would be given to the Town with conservation easement restrictions (see section on Conservation Easement Program). Each proposed tract is specifically identified and explained in the Appendix. The rationale for acquiring or deleting lands on Isle au Haut varies from parcel to parcel, but stems from one or more of the following criteria: (1) to protect lands of exemplary scenic or ecological significance; (2) to acquire lands important for public use or recreation; (3) to eliminate inholdings; and (4) to consolidate the park boundary.

Land Acquisition Policies

Ownership of land within the park boundary would be in fee simple and would be obtained by purchase, as well as by donation and exchange. (The Park Service anticipates that the lands in the Merchants Cove area, in Great Meadow, on Jerusalem Mountain, and west of Long Pond will be donated if the proposed boundaries are legislated.) The basis for future land acquisition at Isle au Haut would be the willing buyer/willing seller concept. If eminent domain actions are deemed necessary, the National Park Service would obtain approval from the Isle au Haut Selectmen before proceeding.

Conservation Easement Program

In view of the location of some of the lands proposed for exchange to the Town of Isle au Haut, the Town has agreed to work with the Park Service in establishing conservation easements on lands above 300 feet in elevation. Easements on those lands owned by the Town would be held by

the Park Service. Easements on those lands owned by private individuals would be held by the Town with the Park Service having backup authority (see Appendix for proposed easement language). Lands deleted from the Park below 300 feet would be subject to existing zoning criteria as developed by the Town in their "Revised Zoning Ordinance March, 1975 with Amendments of March, 1978."

In addition, a conservation easement would be sought for Eastern Ear.

Interpretive Concept

Isle au Haut should remain a relatively undeveloped portion of Acadia National Park where the visitor is free to become a part of the natural scene. The interpretive hiking tours eminating from Duck Harbor would continue and would provide each visitor with an orientation brochure describing the trails and places of interest within the Park. Except for limited signing, interpretation would continue on a personal contact basis.

Development and Land Use Concepts

In keeping with the general atmosphere of the entire island -- one of remoteness intermingled with small fishing villages -- Isle au Haut would be left in a generally undeveloped state. Exceptions to this would be the continued maintenance of the peripheral road in its present state, a boat dock at Duck Harbor, the system of trails within the Park boundaries, and the limited number of backcountry campsites.

Overnight use development would not exceed five campsites (possibly relocated to the south of the Duck Harbor area to decrease congestion by day users and noise from vehicles on the road). Overnight use would continue to be handled on a reservation basis. Day use would be limited at Duck Harbor to one tour boat company operating on schedules designed to maintain the sense of a remote island, uncrowded experience and, simultaneously, to protect the natural resources. To accomplish this, tour boat schedules would be developed in consultation with Park Service and Town officials. An additional trail would be feasible along the southwest shore and some changes in existing trails would be necessary to internalize the trail system. The existing trail to Eastern Head would be closed to the public since it crosses private lands. A trail study would be conducted, working closely with the Town Planning Board, to develop a reasonable Park trail system by means of changes, additions, and improvements to the trail network.

A ranger station and seasonal employee quarters are necessary for the efficient management of Park functions on Isle au Haut. The Town of Isle au Haut has expressed an interest in providing such a facility on a lease basis. Efforts would continue to coordinate this proposal with the General Services Administration and the Town of Isle au Haut.

In order to better evaluate land values associated with the exchange of lands between the Town and the National Park Service, a joint timber survey was performed in 1978 using the services of Mr. Douglas W. Meservey, Registered Professional Forester. The estimated value of the

standing timber on the National Park Service lots proposed for exchange totals $101,254. The estimated value for the timber on the town-owned land is $32,674. A summary of this survey is enclosed in the Appendix. These figures do not include timber values on Western Ear (1A), Merchants Cove lot (3A), and the Goelet property west of Long Pond (4A). These three properties total 155.13 acres, most of which is timbered.

CONCLUSION

Management Alternative 4 with the above-mentioned modifications constitutes the selected alternative for the Isle au Haut unit of Acadia National Park (see Figure 3).

United States Department of the Interior
NATIONAL PARK SERVICE
Acadia National Park
R.F.D. #1, Box 1
Bar Harbor, Maine 04609

IN REPLY REFER TO:
L7617
NAR(PEC)

GENERAL MANAGEMENT

ISLE AU HAUT

ACADIA NATIONAL PARK

Finding of No Significant Impact

The selected alternative modified Alternative 4 -- as described in the preceding Review of Alternatives would neither have appreciable effects upon the environment nor create further controversy. Therefore, this management action does not constitute a major federal action that would have significant impacts on the human environment and an environmental impact will not be prepared.

Superintendent
Acadia National Park

Concurred: Steven H. Lewis
Acting Regional Director
North Atlantic Region

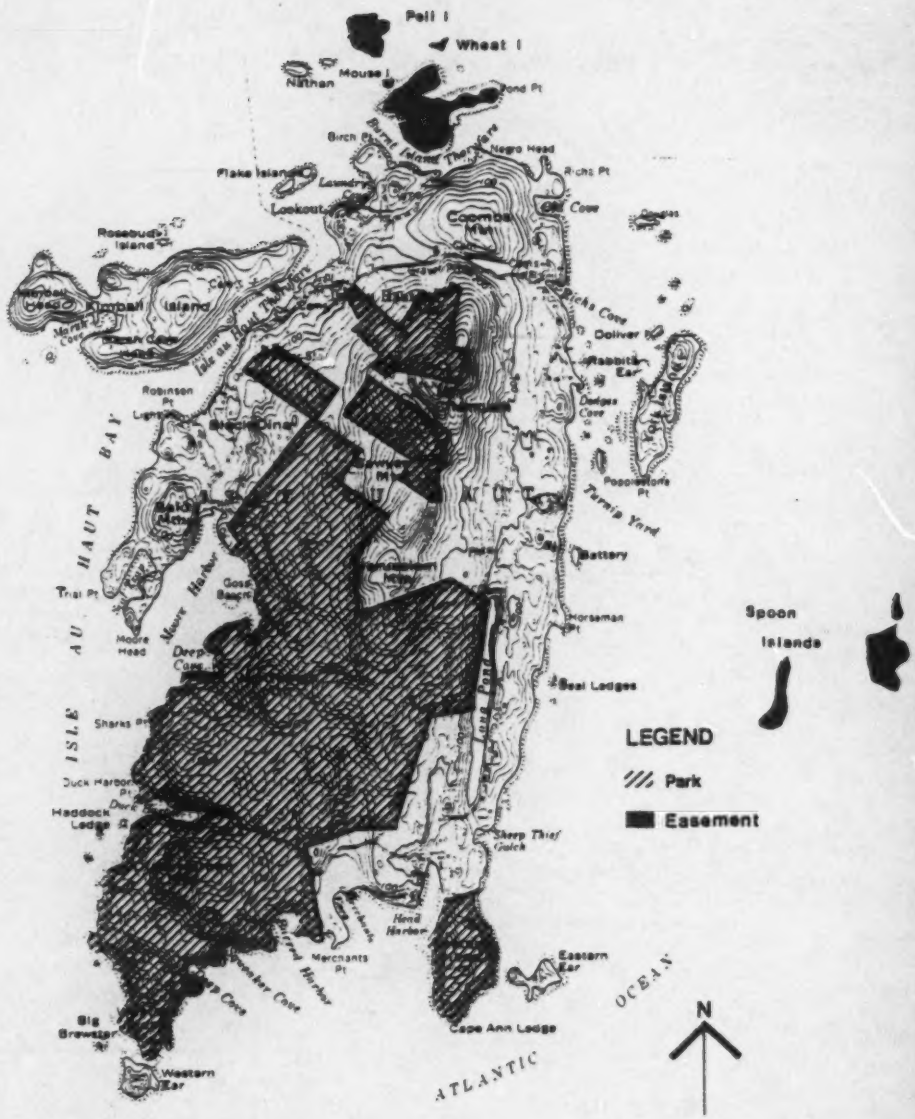


Figure 1: Existing Park Boundaries
ISLE AU HAUT, MAINE

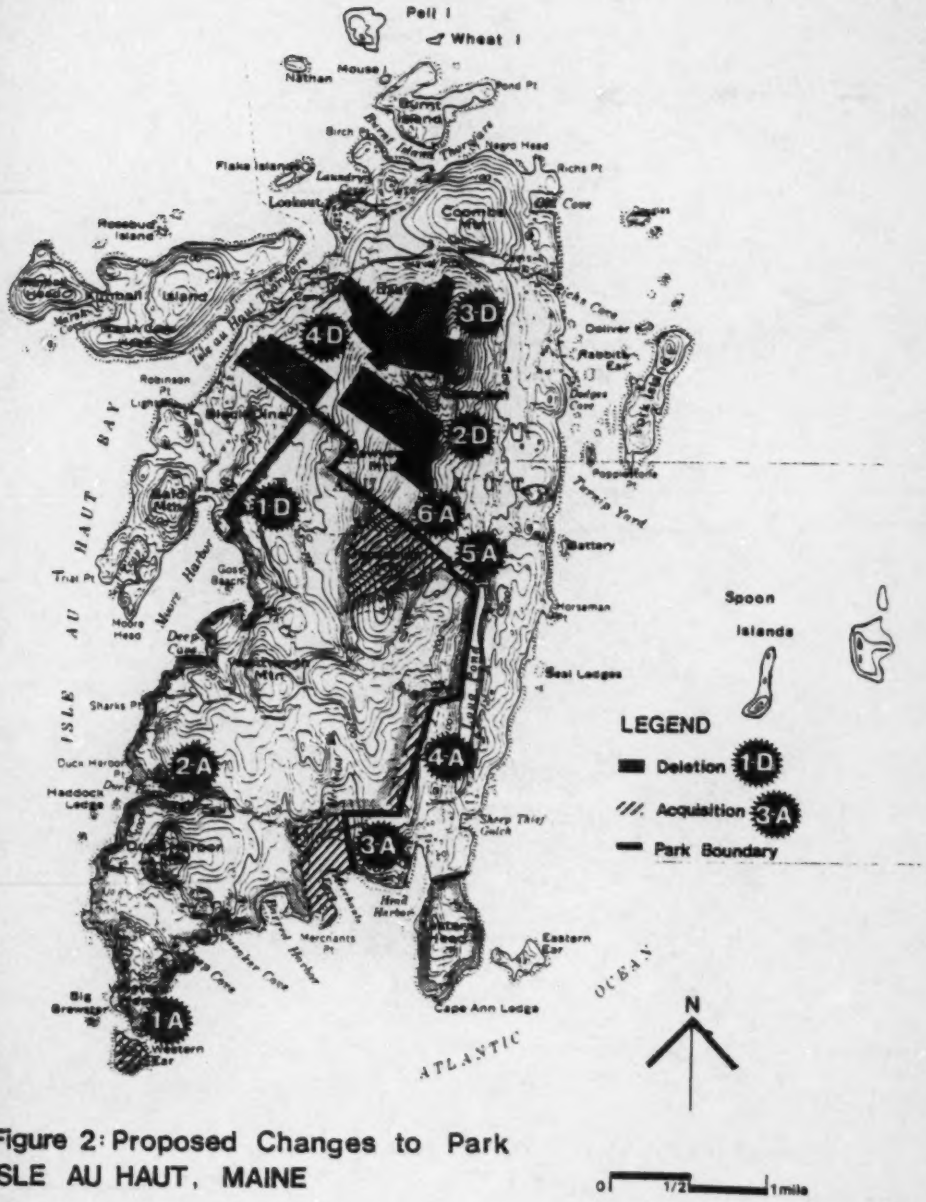


Figure 2: Proposed Changes to Park
ISLE AU HAUT, MAINE

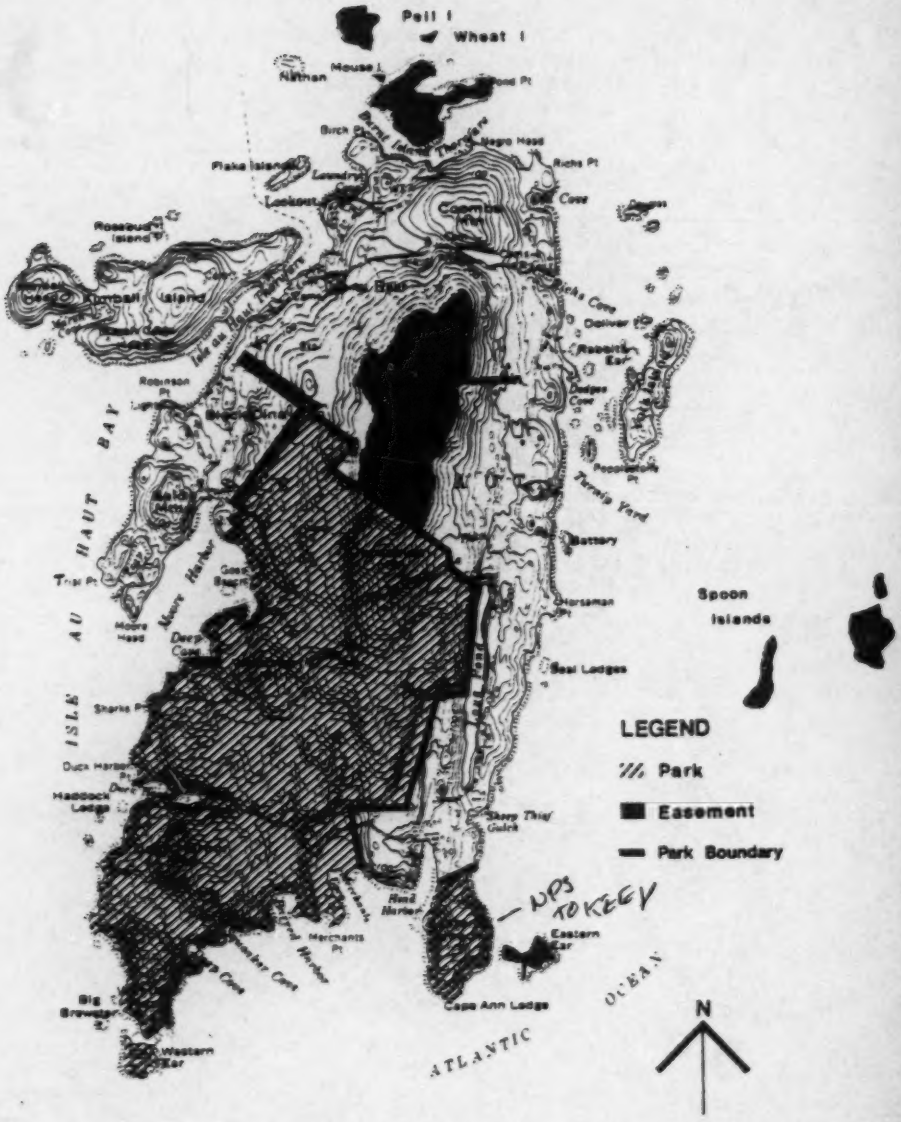


Figure 3: Proposed Park Boundaries
ISLE AU HAUT, MAINE